

STATE DEPARTMENT OF SOCIAL WELFARE
616 K Street
Sacramento, California

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Very sincerely yours,

C. M. Wollenberg

C. M. Wollenberg, Director
Department of Social Welfare

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in the office of the Secretary of State
of the State of California

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FRANK M. JORDAN, Secretary of State

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MANUAL OF ADOPTION POLICIES AND PROCEDURES



State of California
Department of Social Welfare
Sacramento

ADOPTIONS

METHOD OF PLACING REVISIONS AND NEW MATERIAL IN THE MANUAL

In order to provide for the insertion of revised or new material in the manual two notations are used as follows:

1. "Issued" and the date of issuance. This is used when the material is presented for the first time. When a page is noted as "Issued" it should be placed in the manual in its proper numerical order.
2. "Revised" and the date of revision. This is used when the page or part of the material appearing on the page already issued is being revised. A vertical line in the margin of the corrected page is placed opposite the line or lines which have been revised. When a Section or a part of a section is noted as "Revised" the corresponding page or pages in the manual should be removed and the revised page or pages inserted in their place.

NUMBERING OF REVISIONS. Each revisions will be numbered in sequence as released. It is important that the holder of this manual check off the corresponding numbered revisions, as received, on the revision record below. The State Department of Social Welfare should be notified in the event a revision number is passed without receipt of the corresponding numbered sheet.

REVISION RECORD

1	16	31	46	61	76	91
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Man is a social being. He springs from the soil of family life, from it he draws sustenance, to it he is bound by innumerable fibers. When for any reason he is uprooted, his well - being demands that he be transplanted and nurtured with the same tender solicitude for conditions of atmosphere, soil, and sun that the careful gardener displays toward his seedlings. From infancy through adolescence the fundamental need of a human being is the opportunity for undisturbed growth. A child should be deeply rooted; bound to his environment on every side by ties of interest, habit, and affection. Only so can he attain the stability to withstand the storms of later life and make his fullest contribution to society.*

*U. S. Children's Bureau, Publication No. 216, Katharine F. Lenroot, The ABC of Foster Family Care For Children (Washington, D. C., 1936) p. 47.

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CHAPTER 1

ADOPTIONS

2000 GENERAL BACKGROUND

2000

While adoption in the United States has had statutory recognition only since 1851, as a social institution it has both historical antecedents and cultural sanctions. As the legal fiction by which an individual belonging by birth to a certain kinship group acquires novel relationships that are reckoned as equivalent to congenital ones and either wholly or partly supersede the old ties, adoption is part of our historical and cultural heritage.

Many primitive peoples practice adoption, in some instances fostered by the meager living conditions resulting in frequent death in childbirth and in other instances children are adopted in numbers wholly disproportionate to any rational grounds therefor. According to Robert H. Lowie, Anthropologist at the University of California, primitive adoption customs rest in a mental attitude difficult to conceive for those inured to western culture. Primitives commonly have a generic love of children that is no way dependent on a sense of consanguinity. Observation would indicate that the adopted child is in every case treated with all the loving-kindness lavished on a blood child and, if anything, becomes the object of exaggerated tenderness.

Adoption was practiced by the ancient Romans and was part of the Roman civil law. Since the religious headship of the family and the inheritance of property passed from father to son, the motive recognized by the law providing for adoption was the desire for an heir who would promote or continue the prestige of the family. Since it was considered that adoption should imitate nature the civil law required that the adopting parent must be at least fifteen years older than the child to be adopted and must not be a relative within the prescribed limits of consanguinity.

Recognition was given to adoption in the preparation of the Napoleonic Code, and with some limitations the Roman law was followed. Countries of Europe whose codes are based on the Napoleonic have the same provisions and follow the old Roman law.

Legal adoption was unknown to the common law and was not authorized by statute in Great Britain until 1926. In England the child had no absolute right to succeed to any part of the parent's property, but could be disinherited by will in favor of either relatives or strangers. It was possible, therefore, without resort to adoption, for family titles to be continued and family estates kept together when there was no direct male descendant. Provision for care of dependents by means of adoption was probably delayed by the development of the relation of master and apprentice. By means of this arrangement orphans and children of indigent parents could be bound out, while the rights of the master and of the parent under this relationship were defined by law.

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There are many definitions of the word adoption, the choice of which is dependent upon one's personal attitude toward the newly created relationship. Adoption has been defined: "a legal process through which the child's natural parents or guardians waive all rights to him and the adopting parents assume the privileges and duties of own parents"¹; "the legal act whereby an adult takes another person, usually a minor, into a relationship equivalent to the parent-child relation of blood kinship"²; "taking into one's family the child of another as an heir and conferring upon it a title to the rights and privileges as such"³; "the conferring of the privileges of parents upon the childless and the protection of parents upon the parentless"⁴; "voluntary acceptance of a child of other parents to be the same as one's own child"⁵; "means of creating a legal relationship of parent and child between the person wishing to take the child into his own home and a child deprived of the care and protection of his own parents."⁶

As can be seen from the above definitions, the emphasis is on the new family relationship of the child. From the moment the adoption is granted, the child, in almost every instance, is severed for all time from those with whom he is connected by the closest of human ties. Adoption, therefore, becomes one of the most permanent, personal and intimate relationships in human society with a tremendous potential to bring extreme happiness and contentment to all concerned or a devastating tragedy. The close relationship to a sound adoption placement and a stable family relationship is so obvious that one would think it unnecessary to stress.

Adoption is a part of the broader field of child welfare and as a part of that, the field of child placement. "Child welfare should begin with the assumption that the home is the basis of the social fabric and the right and natural setting of any child."⁷ While the preservation of the child's own home should be the first aim, it is recognized that some children must be cared for away from their own families. It is with the goal that every child should have those things which his own home should have given that the efforts of child placement programs are directed. Adoption as part of the field of child placement should be motivated by this same goal. The safeguards which surround and protect the child born into a normal home are ordinarily sufficient. It is only fitting, then, that the child born out of wedlock or otherwise dependent and a subject of adoption should have all the protection the state can provide when he has no change ordinarily to speak for himself and his fate and whole life-span is in the hands of others.

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1. U. S. Children's Bureau, Publication No. 216, Katharine F. Lenroot, The ABC of Foster Family Care for Children (Washington, D. C., 1936), p. 34.
2. "Adoptions" Social Work Year Book, 1937, p. 23.
3. State of California, Biennial Report of State Department of Social Welfare July 1, 1936, to June 30, 1938, p. 67.
4. "Adoptions", The Encyclopedia of the Social Sciences, Vol. 1.
5. Websters New International Dictionary, 1930
6. State Department of Social Welfare, "Report of Division of Adoptions," Nov. 20, 1931
7. U. S. Children's Bureau, Publication No. 216, Katharine F. Lenroot, The ABC of Foster Care for Children (Washington, D. C., 1936), p. 1.

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In the United States the first statute legalizing adoption, as we now think of it, was passed in Massachusetts in 1851. Although the provisions of the present statutes regulating adoption vary from state to state, there are many similarities. The age of the adopting parent is seldom specified in the law. Louisiana, however, reflecting the influence of its early French settlement, followed the civil law in providing that the person adopting shall be at least forty years of age and fifteen years older than the person adopted. Almost all the states require the consent of the living parents of a child born in wedlock, and the consent of the mother of a child born out of wedlock, or the consent of the legal guardian of children whose parents are mentally incompetent, guilty of desertion and found by the court to be unfit to retain the custody of their children.

A movement to increase the safeguards established by law and provide administrative machinery for making these safeguards really effective has developed within comparatively recent years. A Michigan law enacted in 1891 was one of the first to require that the judge make an investigation before entering the decree of adoption; it was later amended to provide that the investigation should be made for the judge by the county agent or a probation officer.

The emphasis on the social significance of adoption in legislation enacted by the states in recent years in contrast to the earlier preoccupation with the child's rights of inheritance, is a reflection of the recognition to protect all children. The importance of a thorough investigation of the home and child with a view to selective placement, a trial period before adoption, increasing control by the state in adoption proceedings are all part of this trend. Thirty-four states, Hawaii and the District of Columbia now have laws requiring a social investigation prior to adoption of a child. Twenty-two states place responsibility for such investigations in the state welfare departments or in authorized child welfare agencies.¹

Thus throughout the years the states by statutory enactment have made the welfare of the child of paramount importance. Recognition has been given to the need that adoption be preceded by a careful investigation with a view to determining whether the child's physical needs will be met in the adoptive home, whether he will be morally safeguarded and given an opportunity for an education and the development of his capacities as well as to protect the natural parents and the prospective adoptive parents.

Various estimates are available regarding the number of adoptions consummated in a year in the United States. These estimates are, in the main, based on legal adoptions since there is no way to ascertain the number of children living in an adoption relationship but for whom no legal action has been taken. A survey recently completed in Illinois showed 3,258 adoptions during that year which was assumed to be one-sixth of the total number consummated in the United States. Based on this estimate approximately 20,000 adoptions were consummated in the nation in 1943.²

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1. "News From the Field," Child Welfare League of America Bulletin, February, 1942, p. 7.
2. William A. Hammitt, "Adoption Revision - An Illinois Home Front Necessary," The Social Service Review, September, 1944, p. 358.

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Since the summer of 1943, there has been a marked increase in the number of independent adoptions investigated by the California State Department of Social Welfare. While the average during the fiscal year 1942-43 was 93 independent adoptions per month, this had increased to an average of 168 during the first nine months of 1944. During the same nine months period there were 1,306 step-parent adoptions, 403 agency adoptions,¹ and 1,516 independent adoptions.^{2*}

1. For distinction between stepparent, agency, and independent adoptions, see Chapter III.
2. State of California, Biennial Report of State Department of Social Welfare, July 1, 1942 - June 30, 1944.
- * Acknowledgment is made for the historical material to U.S. Children's Bureau, Publication No. 262, Mary Ruth Colby, Problems and Procedures in Adoptions (Washington, D. C., 1941) and "Adoption", The Encyclopedia of the Social Sciences Vol. 1.

CHAPTER II

ADOPTIONS IN CALIFORNIA

2100 HISTORICAL DEVELOPMENT

2100

California passed its first adoption statute in 1870, twenty years after admission into the Union. In 1872, this act was superseded by the adoption law of the Civil Code which has remained in substantially the same form to the present time. It provided that any minor child could be adopted by an adult, at least 15 years (now 10 years) older than the child but that the person adopting must have been married, and, if a woman, be a widow or lawfully divorced from her husband without her fault. A married man not lawfully separated from his wife could not adopt a child without his wife's consent.

Legislation in the years following 1872 refined the early law in keeping with the trend of other legislative enactments designed to protect children. The most outstanding change in the adoption law since 1872 was that made by the legislation of 1927 which gave the Department of Social Welfare certain responsibilities in regard to adoptions. Previous to this time petitions for adoption were acted upon by the court with no investigation of the circumstances of the child, his natural parents, or the adopting parents, and no safeguards had been provided to protect those concerned from hasty and unsuitable adoptions.

Under the amendments of 1927 the Department of Social Welfare was given the duty of investigating and reporting to the court on all petitions for adoption. According to the statutes of 1927, following a petition to the Superior Court of the county in which the petitioner had residence it was the duty of the clerk of the court immediately to notify the Department of Social Welfare in writing of the pendency of the action. In all cases in which consent was required, unless a society licensed by the Department to place children joined in the petition, the consent for adoption must be signed in the presence of the clerk of the Superior Court. Under this provision it was made the duty of the Department of Social Welfare to make an investigation in all cases of adoption in which no agency licensed to place children for adoption was a party and to make a full report to the court of the facts with a recommendation regarding the granting of the petition. No hearing could be held until 90 days after filing the petition unless within that time the Department had submitted a report.

Three important changes were made in the adoption law by the 1931 Legislature. First, on all cases in which consent was required, except when the adoption was by stepparent and unless a society licensed to place children for adoption joined in the petition, the consent must be signed in the presence of an agent of the Department of Social Welfare and accepted after an investigation to establish that the child is a fit subject for placement and the home of the petitioners is a suitable one for the child. The Department had found that under the previous law "when consent was filed with the petition, the parent gained the impression that his whole responsibility toward the child had been severed by such an act, and if during the investigation it was learned that either the child or the home was not suitable, it was frequently difficult to refer back to the natural parent and to hold him to a legal responsibility....some parents had gained

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2100 (Continued)

2100

such an impression of finality that the child was frequently left in unfit surroundings with the petitioners leaving no person or agency responsible for the child."¹

A second change in the 1931 law was the elimination of the requirement for an investigation and report in stepparent cases where one parent continued to retain custody. Much of the Department's efforts had gone to the investigation of this type of adoption case. The feeling was that the Department should not be involved in such instances and that if conditions were undesirable the problem would be one for Juvenile Court action as in any case of an unfit home.² In 1933 a provision was added to the adoption law by which the probation officer in the county in which an action for adoption by a stepparent was pending was required to make an investigation and report.

A third change made in 1931 was the elimination of the 90-day limit allowed for the adoption investigation. Under the law of 1927, if within a 90-day period the report on the investigation was not completed, the adoption could be consummated without a report from the Department of Social Welfare.

In 1935 a time allowance for investigations by the State Department of Social Welfare was again inserted in the law. At this time, the span allotted for investigations was set at 180 days and a proviso made to the effect that if within 180 days the Department failed to submit its report then the court might allow a consent to be signed in open court. The court, however, was given authority to allow such additional time for the filing of the report as seemed necessary.

Since 1935 no basic changes have been made in the Civil Code provisions regarding adoptions. Changes made in 1943 related to military service of petitioners or stepparents.

Sec. 230, Civil Code, part of the law passed in 1872, which provides for a procedure by which a father may adopt his illegitimate child without formal legal proceedings was based on Field's Draft of the New York Civil Code. The statement made by the code commissioners giving their reasons for its inclusion is interesting to us now: "This provision....is new, but is so manifestly just, and the present state of the law is so unmerciful to innocent children, that it is presumed that no objections will be made to the change....privacy is an indispensable element of such an adoption. To compel the father to appear before a judge, or in any way to place the matter upon record, would brand the child with the very stigma from which a repentant father would desire to save it."³

1. State of California, Third Biennial Report, Department of Social Welfare July 1, 1930, to June 30, 1932, p. 52.
2. State of California, Third Biennial Report, Department of Social Welfare July 1, 1930, to June 30, 1932, p. 51.
3. Deering, James H., Civil Code of California (San Francisco; Bancroft-Whitney Co., 1931), p. 86.

2110 GENERAL LEGAL PROVISIONS FOR ADOPTIONS

2110

The legal sanction for adoptions in California and the procedural framework by which the new relationship is established are found in the sixteen sections of the Civil Code of California, 221 to 231 inclusive.

Sec. 221 to 224 contain the principal general legal basis for adoptions, i.e.:

221. Any minor child may be adopted by any adult person, in the cases and subject to the rules prescribed in this chapter.

CHILD MAY
BE ADOPTED

222. The person adopting the child must be at least 10 years older than the person adopted.

WHO MAY
ADOPT

223. A married man, not lawfully separated from his wife, can not adopt a child without the consent of his wife, nor can a married woman, not thus separated from her husband, without his consent, provided the husband or wife, not consenting, is capable of giving such consent.

CONSENT TO
ADOPTION
BY SPOUSE

224. A legitimate child can not be adopted without the consent of its parents if living; provided, however, that after the custody of any child has by any judicial decree, been given to the mother, and the father for a period of one year shall willfully fail to pay for the care, support and education of such child when able to do so, then the mother alone may consent to such adoption, but only after the father has been personally served with a copy of a citation requiring him to appear at the time and place set for the appearance in court under Sec. 227 of this code; if the father can not be located for personal service, the same may be made by publication as provided for the publication of summons in Sec. 413 of the Code of Civil Procedure; nor an illegitimate child without the consent of its mother if living; except that the consent of a father or mother is not necessary in the following cases:

CONSENT TO
ADOPTION

1. When such father or mother has been judicially deprived of custody and control of such child by order of the Juvenile Court, declaring such child to be free from the custody and control of either or both of his parents as provided in the Welfare and Institutions Code, adopted May 25, 1937, or any act or acts superseding or amending the same.
2. Where such father or mother of any child has deserted the child without provision for its identification.
3. Where such father or mother of any child has relinquished said child for adoption as provided in Sec. 224m of this code.

SEE WELFARE
AND INSTITU-
TIONS CODE,
SECS. 550 TO
911

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2110 (Continued)

2110

4. Where such father or mother, whose consent is otherwise required, has been declared by a court of competent jurisdiction to be feeble-minded or insane, if the State Director of Institutions and the superintendent of the State hospital of which, if any, such father or mother, is an inmate or patient, certify that such father or mother will not be capable of supporting or controlling the child in a proper manner.

2120 TYPES OF ADOPTIONS

2120

1. Independent Adoptions

This type of adoption is one in which presumably the parent or parents have chosen a home and placed the child there for adoption. It differs (1) from an "agency adoption" in which the child has been relinquished to an agency licensed to find homes for children and place children for adoption and (2) from the "stepparent adoption" in which one natural parent retains custody and control of the child.

The Department of Social Welfare under Sec. 226, Civil Code is responsible for investigating all independent adoptions "to ascertain whether the child is a proper subject for adoption and whether the proposed home is suitable for the child, prior to accepting the consent of a natural parent to the adoption of the child by the petitioner." (See Chapters III and IV, Secs. 2200-2340)

2. Stepparent Adoptions

This type of adoption under Secs. 226 and 227a, Civil Code, is one in which a stepparent is a petitioner, one natural parent retaining his or her custody and control of the child. Adoptions of this type are investigated by the probation officer of the county in which the petition is filed. The State Department of Social Welfare has responsibility for prescribing a form for the consent, which form, when signed, must be filed with the Department. (See Chapter IX, Secs. 2800-2810)

3. Agency Adoptions

Section 226, Civil Code, provides that societies may be licensed by the State Department of Social Welfare to find homes for children and place children in homes for adoption. Section 224m, Civil Code, provides that the father or mother may relinquish a child for adoption by a written statement acknowledged before a secretary or assistant secretary of a licensed adoption agency.

In actual practice the agency files with the State Department of Social Welfare its report on the child and the foster home, and the Department, if it approves the report, sends to the agency its formal approval and waiver of further investigation. (See Chapter VIII, Secs. 2700-2740)

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2120

4. Adoption of Illegitimate Child by Its Father

Section 230, Civil Code, provides that the father of an illegitimate child, by complying with the provisions of this section, thereby adopts the child. None of the provisions of the Adoption Law, Sections 221 to 229, apply to this type of adoption. The Department has no responsibility for investigation or report. (See Chapter X, Secs. 2820-2850)

CHAPTER III

INDEPENDENT ADOPTIONS

2200 LEGAL BASIS

2200

Section 226 of the Civil Code sets forth the basic statutory framework under which the State Department of Social Welfare is given responsibility for the investigation of "independent" adoptions.

PETITION FOR
ADOPTION

226. Any person desiring to adopt a child may for that purpose petition the Superior Court of the county in which the petitioner resides and the clerk of the court shall immediately notify the State Department of Social Welfare at Sacramento in writing of the pendency of the action. In all cases in which consent is required, except in the case of an adoption by a step-parent where one natural parent retains his or her custody and control of the child, unless a society licensed by the State Department of Social Welfare to find homes for children and place children in homes for adoption joins in the petition for adoption, the consent of the natural parent or parents for the adoption must be signed in the presence of an agent of the State Department of Social Welfare on a form prescribed by such Department and filed with the clerk of the Superior Court, in the county of the petitioner's residence.

SIGNING OF
CONSENT

Such consent, when reciting that the person giving it is entitled to the sole custody of the minor child, shall, when duly acknowledged before such agent, be prima facie evidence of the right of the person making it to the sole custody of the child and such person's sole right to consent.

EFFECT OF
CONSENT

In all cases of adoption in which no agency licensed to place children for adoption is a party, except in the case of an adoption by a stepparent where one natural parent retains his or her custody and control of the said child, it shall be the duty of the Department of Social Welfare to ascertain whether the child is a proper subject for adoption and whether the proposed home is suitable for the child, prior to accepting the consent of a natural parent to the adoption of the child by the petitioner.

DUTY OF
DEPARTMENT
OF SOCIAL
WELFARE

In all cases in which the consent of the natural parent or parents is not necessary and a society licensed to place children for adoption is not a party to the petition, the State Department of Social Welfare shall, prior to the hearing of the petition, file its consent to the adoption with the clerk of the Superior Court of the county in which the petition is filed. Such consent shall not be given by the Department of Social Welfare unless the child's welfare will be promoted by the adoption.

WHEN CONSENT
NOT
NECESSARY

Except in the case of the adoption of a child by a stepparent where one natural parent retains his or her custody and control of the child, it shall be the duty of the Department of Social

REPORT BY
DEPARTMENT
OF SOCIAL
WELFARE

(Section Continued on Next Page)

Welfare to submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition within 180 days after the filing of the petition; provided, however, that the court may allow such additional time for the filing of said report as in its discretion it may see fit. The report required of the Department of Social Welfare may be waived by the department in all cases in which a society, licensed by the Department of Social Welfare to place children in homes for adoption, is a party or joins in the petition for adoption. Such waiver may be issued by the Department at any time, either before or after the filing of the petition for adoption.

Whenever any report or findings are submitted to the court by the Department of Social Welfare under any provision of this section, a copy of such report or findings, whether favorable or unfavorable, shall be given to the attorney for the petitioner in the proceedings, if the petitioner has an attorney of record, or to the petitioner.

COPY OF
REPORTS TO
ATTORNEY

If the father or mother of a child to be adopted resides outside the State of California, his or her consent may be signed before a notary and in such case the consent of the Department of Social Welfare will also be necessary.

CONSENT OF
NON-RESIDENT
PARENT

A parent who is a minor shall have the right to sign a consent for the adoption of his or her child and such consent shall not be subject to revocation upon such parent reaching his or her majority.

MINOR
PARENTS

If for a period of 180 days from the date of filing the petition, or upon the expiration of any extension of said period granted by the court, the Department of Social Welfare fails or refuses to accept the consent of the natural parent or parents to the adoption, or if said Department fails or refuses to file or to give its consent to an adoption in those cases where its consent is required by this chapter, either the natural parent or parents or the petitioner may appeal from such failure or refusal to the Superior Court of the county in which the petition is filed, in which event the clerk shall immediately notify the Department of Social Welfare of such appeal and the Department shall within 10 days file a report of its findings and the reasons for its failure or refusal to consent to the adoption or to accept the consent of the natural parent. After the filing of said findings, the court may, if it deems that the welfare of the child will be promoted by said adoption, allow the signing of the consent by the natural parent or parents in open court, or if the appeal be from the refusal of said Department to consent thereto, grant the petition without such consent.¹

APPEAL

1. Paragraph 7, Sec. 226, Civil Code omitted since the paragraph pertains to stepparent adoption in which the SDSW has no power of investigation.

2210 PROCEDURE FOR FILING PETITION FOR AN ADOPTION

2210

1. Filing

- a. Any person desiring to adopt a child may for that purpose petition the Superior Court of the county in which the petitioner resides and the clerk of the court shall immediately notify the State Department of Social Welfare in Sacramento of the pendency of this action. (Sec. 226, Civil Code)
- b. The petition for adoption must be filed in the office of the county clerk in the county in which the petitioner resides. (Secs. 226 and 227, Civil Code)

2. Form of Petition

- a. There is no required form for a petition and it may be prepared by either the attorney for the petitioner, or by the petitioner acting as his own attorney.

The Department will make available on request to the petitioners or their attorney an outline which may be used in the preparation of an adoption petition. (See Appendices, Sec. 2935)

3. Content of Petition

In order to ensure that basic legal requirements are met it is desirable to include in the petition the following points regarding the petitioners, the child to be adopted, the child's name after adoption:

a. Petitioners

- (1) That petitioners are residents of the county in which the petition is filed. (Sec. 226, Civil Code)
- (2) That petitioners are adults (i.e., over 21 years of age), and at least 10 years older than the person adopted. (Secs. 221, 222, Civil Code)
- (3) Petitioners' marital status. This is necessary because of the provision that a married man not lawfully separated from his wife can not adopt a child without the consent of his wife, nor can a married woman not thus separated from her husband, without his consent, provided the husband or wife not consenting is capable of giving such consent. (Sec. 223, Civil Code)
- (4) The address of the petitioners is not required by law, but it is desirable to include it in the petition since the petitioners will be interviewed during the course of the investigation.

(Section Continued on Next Page)

2210 (Continued)

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b. Child to be Adopted

- (1) Name of the child, including all variations if a child has been known by several names. If the name on the birth certificate is different from that by which the child is known to the petitioners this should be clearly stated.
- (2) Birth date and birthplace of child.
- (3) Legal status of the child, which may be stated in the following way:
 - (a) The child was born unto _____ and _____, husband and wife, or
 - (b) The child was born out of wedlock unto _____, or
 - (c) The child was born unto _____, and pursuant to Secs. 200 and 224 of Civil Code of California, the consent of the mother only is required to the adoption.

c. Child's Name After Adoption

- (1) A child, when adopted, may take the family name of the person adopting. (Sec. 228, Civil Code) It is, therefore, desirable to include in the petition the name by which the child will be known after adoption, regardless of whether the name is changed or remains the same.

4. Amended Petition

- a. An amended petition may be filed to correct errors in the original petition, or
- b. To present new facts or facts which have been disclosed after the filing of the petition, for example:
 - (1) Amended petition showing that the child has been declared free from the custody of his parent or parents.
 - (2) Amended petition showing that the parent, whose consent was otherwise necessary, has died.
 - (3) Amended petition showing that the natural mother, who had been reported to have sole custody, was in fact married at the time of the child's birth, and giving the correct date obtained.

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2210 (Continued)

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5. Adoption Costs

- a. There are no filing fees and no court costs.
- b. There are no fees for services of State Department of Social Welfare in its investigation.
- c. Petitioners are responsible for any attorney's fees incurred by them.
- d. If separate action is necessary to have the child declared free from custody and control of his natural parents, there may be fees involved for service of citation and cost of publication in the newspaper of citation.
- e. If the consent of the father is to be eliminated under Sec. 224, Civil Code, there may be costs involved in personally serving him with the copy of the citation of the hearing, or in serving him by publication.
- f. If depositions are necessary under Secs. 227 and 227a, Civil Code, costs must be borne by petitioners.

2220 RESPONSIBILITY OF STATE DEPARTMENT OF SOCIAL WELFARE FOR
INDEPENDENT ADOPTIONS

2220

1. Service Rendered Prior to Filing of Petition

Prior to receipt by the Department of notification of pendency of an adoption petition in a county, the Department has no legal obligation to render any service on an adoption matter. In actual practice, however, the Department can give considerable service to natural parents, prospective adoptive parents, attorneys, physicians and other interested persons. Contacts with such persons are generally limited to office interviews or through correspondence. An opportunity is given in these instances to interpret the adoption program and help maintain proper practices of child placement and child care. A pamphlet summarizing the principal provisions of the Adoption Law is available for distribution. A form for guidance in preparing petitions for adoption may be given upon request to petitioners or their attorney.

2. Responsibility for Investigation of Independent Adoptions by State
Department of Social Welfare

- a. It is the legal responsibility of the Department to:
 - (1) Ascertain whether the child is a proper subject for adoption.
 - (2) Ascertain whether the proposed home is suitable for the child.

Note: The above two items must be ascertained prior to accepting the consent of a natural parent to the adoption of a child by the petitioner (Sec. 226, paragraph 3, Civil Code).

(Section Continued on Next Page)

2220 (Continued)

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- (3) To submit to the court a full report of the facts disclosed by its inquiry, with a recommendation regarding the granting of the petition. (Sec. 226, paragraph 4, Civil Code)
- (4) To submit to the attorney for the petitioner in the proceedings, if the petitioner has an attorney, or to the petitioner, a copy of any report or findings submitted to the court. (Sec. 226, paragraph 6, Civil Code)
- (5) To witness the signature to the consent to adoption by the natural parent or parent residing in California on a form prescribed by the Department. (Sec. 226, Paragraph 1, Civil Code)
 - (a) If the father or mother of a child to be adopted resides outside the State of California, his or her consent may be signed before a notary and in such case the consent of the Department of Social Welfare will also be necessary. (Sec. 226, paragraph 8, Civil Code)
- (6) In all cases in which the consent of the natural parent or parents is not necessary and a society licensed to place children for adoption is not a party to the petition, the Department shall, prior to the hearing of the petition, file its consent to the adoption with the clerk of the Superior Court of the county in which the petition is filed. Such consent shall not be given by the Department unless the Child's welfare will be promoted by the adoption. (Sec. 226, paragraph 4, Civil Code)
- b. It has been Department policy but not a requirement to have an agent from the Department witness the signature to a withdrawal of consent or a refusal to consent to an adoption by the parent, or parents residing in California (See Forms Adopt M20, M23, M30, and M31).

3. Time Limit for Investigation

- a. The Department of Social Welfare shall submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition with 180 days after the filing of the petition. (Sec. 226, paragraph 5, Civil Code)
- b. The court may allow such additional time for the filing of the report as in its discretion it may see fit. (Sec. 226, paragraph 5, Civil Code)

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2220 (Continued)

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4. Purpose of Investigation

"The main purpose of adoption statutes is the promotion of the welfare of children, bereft of the benefits of the home and care of their real parents, by the legal recognition and regulation of the consummation of the closest conceivable counterpart of the relationship of parent and child."¹

There should be a complete recognition of the social implications of the above statement in any investigation of a petition for adoption. It is, therefore, the investigation process which implements any adoption law and which ensures that the best interests of all parties to an adoption, including society at large, will be protected. This factor long recognized by the Department and expressed consistently in its biennial reports is perhaps best stated in the following:

"The function of the State in adoption proceedings is to protect the best interests of the child, the natural parents, and the adoptive parents. The welfare of the child is the paramount issue. Where complete social investigations are not required, studies have shown that bad placements occur frequently. Not only should every precaution be taken to ensure that the child will be adopted by a family which can give it the proper care and training, and develop the affectional relationships existing in normal family life, but the adoptive parents should have every possible assurance that the child is capable of normal physical and mental development, and that it will fit into the family situation. The rights of the natural parents must be safeguarded. Hasty decisions to relinquish children for adoption should be subject to sober review and efforts made to have the parents determine whether adoption is, in fact, the most desirable solution of their problem."²

a. The Department makes a thorough study to determine:

- (1) That the parent's consent is voluntary, and given only after full consideration of possible satisfactory alternatives which might be possible through the child's family or through community resources.
- (2) That the child is legally free for adoption.
 - (a) That the parent's consent, properly executed, is given where required.
 - (b) That the parent's consent, where otherwise required is not necessary under provisions of Sec. 224, Civil Code.

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1. In Re Santos. 185 Cal. 127
2. State of California Biennial Report, Department of Social Welfare. July 1, 1938, to June 30, 1940, p. 66.

2220 (Continued)

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- (3) That the child is suitable for adoption, from the standpoint of health, heredity, intelligence and personality.
 - (4) That the petitioners' motives for adoption are sound.
 - (5) That the petitioners are suitable adoptive parents for this child, consideration being given to age, health, emotional stability, harmonious home life, understanding of children, financial security, cultural level, and background.
 - (6) That the child is well adjusted in the petitioners' home.
 - (7) That adoption will provide opportunity for the full development of the child's potentialities.
 - (8) That the child will be brought up in a religious faith acceptable to his natural parents if that is known. If the petitioners are not of the same religious faith as the child's parents, this subject should be discussed with the parents and their express approval should be given before their consent to the adoption is accepted by the Department.
- b. The Department makes an evaluation of the facts disclosed by its investigation to determine:
- (1) That adoption is for the child's best interest and future welfare, and should be recommended; or
 - (2) That adoption will provide legal protection not otherwise available for the child, and for this reason should be recommended, although unfavorable recommendation might otherwise be made on basis of the facts disclosed; or
 - (3) That the favorable factors involved, (taking into consideration the length of time the child has been in the home, and the probable damage to the child by removal from the home) outweigh other unfavorable factors in the situation and merit recommendation of the petition; or
 - (4) That adoption is not for the best interest of the child and that the Department should recommend that the petition be denied.

An adequate investigation will include not only the gathering of facts in regard to the adoption, but an analysis and evaluation of the facts obtained. Methods for obtaining and verifying information will vary with the individual case. The value of the Department's recommendation, however, will depend upon the validity of the findings of the agent making the investigation.

CHAPTER IV

INVESTIGATION PROCEDURES FOR INDEPENDENT ADOPTIONS

2300 GENERAL PROCESS OF INVESTIGATION BY AGENT

2300

1. Agent reviews the petition for adoption, checking each statement, and before filing the final report to the court clears with the attorney any discrepancies disclosed by the investigation, in order that the petition may be corrected or amended if necessary.
2. Sends to petitioners for completing questionnaire regarding themselves and the child and authorization to be signed by them for release of medical, social, and employment information (Form Ad 9 Rev.).
3. Interviews each petitioner, discusses data on the questionnaire, and secures further necessary information.
 - a. The first contact with petitioners may be made by appointment, but at least one contact during the course of the investigation should be made without previous announcement. If possible, each petitioner should be interviewed separately before they are interviewed together. The attitudes of any other children of the petitioners, or persons in the home, should also be determined.
4. Secures reports by either correspondence or interviews from references, natural parents, petitioners, relatives, physicians, agencies, and any other sources necessary to clear following points.
 - a. Present health and physical condition of the petitioners, including serological blood tests for syphilis. (See Authorization Form AD M26 and Report Form Ad M350.)
 - b. Health and physical condition of natural mother.
 - (1) Where the child to be adopted is an infant, obtains a report from the obstetrician on her health and physical condition, including a serological blood test for syphilis, and a statement of any complications of pregnancy and birth. (See Form AD M39.)
 - (2) Where the child to be adopted is an older child, obtains report as in "(1)" above, if deemed necessary, otherwise, whatever reports seem necessary in the particular case.
 - c. Present health and physical condition of the child.
 - (1) Infant - Report from pediatrician, clinic, or other physician under whose care the child has been placed. (See Form Ad M36.)
 - (a) If no such care has been given, requires that a medical examination be made and report furnished.

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2300 (Continued)

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- (2) For the older child, secures such reports as above if indicated the decision to be made on the basis of the age of the child, the length of time in the petitioners' home, whether the child is related to the petitioners, and whether there seems to be any necessity for an examination.
 - d. Psychological and psychiatric examinations may be deemed advisable and, if so, should be requested.
 - e. Employment of petitioners, which should be verified:
 - (1) By correspondence with the employer (see Authorization Form AD M21 and Verification Form Ad M29), or
 - (2) Through satisfactory verifications in the possession of the petitioners.
 - f. Financial status of petitioners. Information regarding property and income should be verified.
 - g. Citizenship of petitioners. If the petitioners are foreign born, information regarding their citizenship should be verified; if the petitioners are aliens, information regarding their legal entry should be verified.
 - h. Registration with a Social Service Exchange, if one is available, of the petitioners and their parents, natural parents and their parents, and subsequent clearance with agencies to whom they are known, for information pertinent to the investigation. Clearance may be made by telephone or letter, according to the working agreements with the agencies. All available information in the records of other agencies should be reviewed and given consideration early in the investigation.
 - i. Opinions of references given by the petitioners may be secured either through interviews or by correspondence (see Form Ad 10).
 - j. Verification of vital statistics (See Secs. 2310 and 2645, and Form Adop M5, M7, M8, and M10.)
5. Communicates with attorney during progress of investigation, keeping him informed of status of case, and clearing any necessary points with him. The law does not require that petitioners be represented by an attorney. Petitioners may file their own petition and carry out the legal responsibilities. (Sec. 226, Civil Code)
- a. It is the Department's responsibility:
 - (1) To work closely with the attorney, as the petitioners' legal counsel, submitting to him for consideration any problem which may arise during the course of the investigation.

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2300 (Continued)

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- (2) To discuss the case with the attorney before filing a recommendation for denial.
- (3) To give the attorney a copy of any report or findings submitted to the court. (Sec. 226, Civil Code)

b. It is the attorney's responsibility:

- (1) To prepare and file the petition to the Superior Court of the county in which the petitioners reside. (Sec. 226, Civil Code)
- (2) To prepare (1) the agreement which the petitioners must execute or acknowledge in writing, stating that the child shall be treated in all respects as their lawful child, and (2) the consent of each spouse to the adoption of the child by the other spouse. (Secs. 223 and 227, Civil Code)
- (3) To prepare the consent to the adoption by a child over 12 years of age. (Sec. 225, Civil Code; see Sec. 2935, Appendices)
- (4) To prepare the Order of Adoption. (Sec. 227, Civil Code)
- (5) To have the case set for hearing in the Superior Court of the county in which the petition was filed.
- (6) Generally the attorney will appear in court with the petitioners. Provision was made by legislation enacted in 1943 for court appearance by counsel commissioned and empowered in writing to represent a petitioner in military service when it is impossible or impracticable for him to be present at the hearing. (Sec. 227, Civil Code)
- (7) To file in the office of the county clerk the Order of Adoption. (Sec. 227, Civil Code)
- (8) To prepare for completion by the county clerk the Certificate of Adoption. (Sec. 10250, Health and Safety Code)

c. Date desired by Department and requested of attorneys.

- (1) Copy of petition for adoption.
- (2) Address of petitioners.
- (3) Certified copy of birth certificate of the child.
- (4) Verification of marriage of petitioners.
- (5) Other verifications necessary to the investigation.

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d. Free legal service.

- (1) Free legal service is sometimes available through legal aid societies, a public defender, city or county attorney or other attorney through the Bar Association or designated by the court in instances where an adoption seems socially desirable but the petitioners do not have sufficient funds to pay an attorney.
6. Sees the child to be adopted, and if he is old enough talks with him and learns all that is possible through observation and conversation.
7. Calls in the home of the petitioners to observe the physical conditions, as well as the atmosphere of the home, adjustment of various members of the family to each other, etc. Since the agent should have some knowledge of foster home and parents before discussing the consent and placement with the natural parent, the petitioners should be seen first if possible.
8. Arranges for interviews with natural parents:
 - a. Resident in California:
 - (1) By agent handling the case.
 - (2) By agent assigned to district, where parent resides.
 - b. Resident outside California:
 - (1) By direct correspondence with natural parent.
 - (2) By request to other social agency for interview.
9. Evaluates information disclosed by the investigation to determine whether in the opinion of the Department the petition for adoption should be recommended or disapproved.
10. Makes a report with recommendation to the court, and sends a copy to the attorney for the petitioners, or to the petitioners if they have no attorney.

2310 INVESTIGATION OF CHILD, NATURAL PARENTS AND PETITIONERS

2310

"No hard and fast rules can be laid down as to what should be included in an adoption investigation. Certain general standards of procedure must serve as a guide, but the plan for each investigation must depend on the circumstances involved. At no time should the procedure be permitted to become routine; other-

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2310 (Continued)

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wise the purpose of the investigation is likely to be obscured by the necessity for gathering routine information. Just as each child is an individual, so each adoption investigation must be planned individually."¹

The agent to whom the case is assigned proceeds as follows:

1. Child

- a. Secures name, date and place of birth, names of parents.
 - (1) Secures and reviews birth certificate and compares with
 - (a) Information from parents.
 - (b) Reports discrepancies which cannot be reconciled.
- b. Secures report from physician attending the birth (in all cases of infants and as deemed advisable in cases of older children) concerning complications of pregnancy and birth, condition of child, and reports of tests and examinations. (Form Adop M39)
- c. Secures report of pediatrician, hospital, clinic, or other physician under whose care the child has been placed. (Form Adop M36)
- d. Requires examination and report, where no medical care has been given or no medical report is available, unless the circumstances of the case indicate the advisability of an exception.
- e. Secures developmental history of the child (physical, mental, social) from natural parents, petitioners, institutions, school, etc., as indicated.
- f. Requests petitioners to arrange for a psychological or psychiatric examination where its advisability is indicated.
- g. Observes the child and talks with him if he is old enough to converse.
- h. Determines the adjustment of the child to the petitioners, and where the child is old enough to express an opinion regarding the adoption determines his wishes regarding adoption. (See Chapter V, Section 2440)
- i. When the child is 12 years of age or older, ascertains whether he consents to his own adoption. (Sec. 225, Civil Code)
- j. Placement.

- (1) Determines who placed the child and under what circumstances;
(Section Continued on Next Page)

1. U. S. Children's Bureau, Publication No. 262, Mary Ruth Colby, Problems and Procedures in Adoptions (Washington, D.C., 1941), p. 68.

2310 (Continued)

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- (2) Whether the natural parents and petitioners are related to each other or known to each other by name or sight.
- (3) How long the child has been in the petitioners' home prior to the filing of the petition for adoption.

k. Legal status of child.

- (1) Determines the legal status of the child, whether legitimate or illegitimate, orphan, half-orphan, child left without means of identification, child declared free from custody and control of his parent or parents, child having legal guardian of person and/or estate.
 - (a) When a child has been deserted without provision for its identification an adjudication of abandonment is not necessary in order to meet the conditions under which consent of living parents is not required for the adoption of their child. It is proper for the Department to impose this as a condition in any case in which it believes it is for the best interests of the child to do so.

Abandonment proceedings will not be routinely required in cases where the child to be adopted has been deserted without means of identification. Where the provisions of the Health and Safety Code have been complied with and a certificate of finding issued, or where the child has been taken into Juvenile Court and declared a foundling, abandonment proceedings will not be required.

If there is any doubt as to the status of the child, however, either by reason of the circumstances of the finding, or if it appears that sufficient effort has not been made to establish its identity, an adjudication of abandonment should be required. (AGO NS5322)

- (2) Reviews the facts in the case to determine if consents of living parents are necessary.
- (3) In connection with the adoption of every illegitimate child, the question of whether there has been an adoption under Sec. 230, Civil Code, should be given consideration (see Chapter X, Secs. 2820 - 2850.).

l. Adoption of an infant.

- (1) When the child being adopted is an infant, except in unusual circumstances, at least 150 days should elapse before the final report is filed and the Department's recommendation is made.

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2310 (Continued)

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m. Second Adoption of a child.

- (1) When a child is being adopted for the second time, the investigation should cover the reason for the replacement, adjustment in the new home, child health, mental and social development, and the usual complete investigation of the petitioner. It will not be necessary, however, to repeat in the record the basic information in regard to the child.

n. Older child, or child placed with close relatives.

- (1) In the following types of cases all the basic information should be obtained regarding the child and petitioners and vital statistics should be verified, but collateral contacts and more intensive social investigation may be relaxed, or, in special instances, omitted altogether:
 - (a) A child being adopted by a close relative.
 - (b) A child who has been in the home for a period of years.
 - (c) An older child who consents to his own adoption and who has been in the home a sufficient length of time for him, as well as the petitioners, to recognize the seriousness of the step and the adjustment involved.

2. Natural parents.

- a. Secures personal and health history of parents, their siblings and their parents, and data regarding any known instance of feeble-mindedness, insanity, or epilepsy in the family history and obtains authorization for release of medical and social information regarding parent and child. (For guide in interviewing natural parents see outline: Interview With Natural Parent, Appendices Sec. 2920)

- (1) Information is secured directly from the natural parents by interview, where resident in California, and, where non-resident, through correspondence, or preferably by agency interview.
- (2) Information is secured from relatives, social agencies, institutions, references.
- (3) Secures medical reports verifying reported illnesses of parents or other relatives which may be pertinent because of the possibility of inherited characteristics. (See Form Adop M49 - "Mother's Physician's Authorization")

2310 (Continued)

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b. Determines what financial assistance, if any, was given to the natural mother by or for petitioners, and whether such assistance influenced her decision to make the placement or to consent to the adoption.

c. Takes consent. (See Chapter V, Sec. 2400 - 2490)

3. Petitioners.

a. Secures personal data from petitioners through personal interviews and by means of written questionnaire signed by each petitioner. Information in regard to the family should be up-to-date at the time of the court hearing, which will necessitate some contact with the petitioners, just prior to the filing of the final report to the court. (See Form Ad9, Adoption Questionnaire)

b. Seeks through information secured to determine that petitioners have (see outline for Interview With Petitioners):

(1) Sound motivation for adoption.

(2) Emotional stability.

(3) Good marital relationship.

(4) Understanding of children.

(5) Harmonious home life.

(6) Reasonably good health and health expectancy.

c. Gives careful consideration to the following factors:

(1) Age of petitioners.

(2) Cultural level and background.

(3) Present financial status and financial security for the future.

(4) Occupation of petitioners.

(5) Housing, neighborhood influences, and advantages.

(6) Religious interests and activities.

(7) Social interests and activities.

(8) Military status of man petitioner.

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2310 (Continued)

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d. Seeks to determine whether:

- (1) Each petitioner has a sincere interest in the child and wishes consummation of the adoption.
- (2) Each petitioner has established a satisfactory parent-child relationship with the child to be adopted.
- (3) Petitioners have a real understanding of the child and have the desire and ability to assist the child in his development.

e. Adoption of a second child.

- (1) When a second child is being adopted by the petitioners, that part of the investigation which refers to the petitioners will need only to be brought up to date, including health, housing, make-up of the family, employment, and finances. A complete investigation will be necessary for the child, however.

f. Older child, or child placed with close relatives.

- (1) When an older child is being adopted by a close relative or when he has been in the home of a near relative for a period of years and consents to his own adoption, all the basic information regarding the child and the petitioners and vital statistics should be verified but collateral contacts and more intensive social investigation may be relaxed, or, in special instances, omitted altogether.

4. Vital statistics.

a. Verifies vital statistics essential to the investigation by the State Department of Social Welfare, to establish:

- (1) The identity of the Child (birth certificate).
- (2) The legal status of the child (this includes all marriages and verification of dissolution of marriages of the natural parents).
- (3) Marital status of the petitioners, to determine
 - (a) Whether the present marriage is valid and non-voidable.
 - (b) Whether the petitioner is a married person and the consent of the spouse to the adoption is necessary.

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2310 (Continued)

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b. Nature of verification.

(1) Satisfactory evidence listed in order of preference:

- (a) A certified copy of the document (certified to by the proper officer in whose custody the records are kept);
- (b) A certified photostatic copy of the document (certification as in "(1)";
- (c) The original document upon which appears the notation by the proper authority that it has been recorded in the proper public file.

(2) Less satisfactory evidence, listed in order of preference, which may be used where none of the above verification can be secured:

- (a) Original document not marked, as in "(1) (c)" above,
- (b) Photostat of original document not marked recorded, as in "(1) (c)" above.
- (c) Letter or form from the proper official in whose custody the records are kept stating that the document is recorded.

c. Certificates desired:

- (1) Birth certificate of the child.
- (2) Marriage record of natural parent or parents at time of child's birth.
- (3) Record of previous marriages of either parent, and subsequent deaths or divorces of spouse in each case.
- (4) Record of subsequent marriage of either parent and record of termination of marriage of spouse in each case.
- (5) Marriage record of petitioners.
- (6) Record of any previous marriage of either petitioner.
- (7) Record of divorce, annulments, or death of the spouse in each previous marriage of either petitioner.

2320 REPORT TO THE COURT

2320

1. Reason for Report to the Court

- a. The State Department of Social Welfare is required to submit to the court a full report of the facts disclosed by its inquiry, with a recommendation regarding the granting of the petition. The final report should be a concise summary of all the facts pertinent to the adoption. (Sec. 226, Civil Code)
- b. "The purpose of the report to the court is to supply the judge with factual information so interpreted that he may have a clear but unbiased understanding of the entire situation surrounding the proposed adoption to assist him in making his decision."¹ From the report the court may have the benefit of this factual information, in addition to the examination of the parties in court, on which to base a decision as to granting the petition. The report to the court, therefore, is one of the most important parts of the adoption procedure and through it the Department may interpret the principles and practices involved in adoption practices.

2. Content of the report.

- a. A statement of the facts disclosed by the investigation. (See outline For Court Report and Instructions For Preparing Appendices Sec. 2930)
- b. A statement of the Department's estimate of the suitability of the home for the child.
- c. A statement of the Department's recommendation:
 - (1) When the Department recommends that the petition be granted, the parents' consents in the possession of the Department must be attached to the report.
 - (2) There must be a statement that the Department accepts the parents' consents, or that the Department consents.
 - (3) When the Department recommends that the petition be denied, there must be the statement that the Department refuses to accept the consent, and/or refuses to consent to the adoption.
 - (4) A conditional recommendation of approval may be made when a legal determination is involved. It should never be used,

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1. U.S. Children's Bureau, Publication No. 262, Mary Ruth Colby, Problems and Procedures in Adoptions (Washington, D. C., 1941), p. 73.

2320 (Continued)

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however, in order to escape responsibility for a definite decision when the matter is one involving judgment. Conditional recommendations may be made in the following instances:

- (a) When the child has been awarded to the mother by judicial decree and the father has willfully failed to contribute to its support for the period of one year when able to do so.
 - 1) If the petition alleges that the father's consent will be eliminated by court determination under Sec. 224, Civil Code, as having willfully failed to contribute when able; or
 - 2) If copy of the citation (either for personal service or by publication) is submitted by the attorney.
- (b) When the child is to be declared free from the custody and control of the parents.
 - 1) If an endorsed copy of the petition to declare him free from the custody and control of his parents is furnished to the Department; or
 - 2) If notice of the filing of such petition is received from the Juvenile Court.
- (c) When there is to be a court determination that the mother has sole custody (either for a child born in wedlock but not the child of the woman's husband, or for a child born within 10 months of the dissolution of the marriage).
 - 1) If the petition sets forth the fact that the mother is married but is claiming sole custody, or that the child was born within 10 months after the dissolution of her marriage, and the attorney states that he will have the hearing on the question prior to the adoption hearing; or
 - 2) If the Department has been furnished with a copy of the petition asking for the establishment of sole custody.
- (d) There may be other instances where a conditional recommendation of approval may be desirable. It should be made, however, only with the approval of the supervisor of the Adoption Unit.

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2320 (Continued)

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3. Types of report

a. Complete report, content described above.

- (1) Recommendation of approval shall be made when it is determined that the child is a proper subject for adoption and the home suitable for the child.
- (2) A recommendation of denial shall be made in every case in which the investigation during the 180 day period (or extension of time granted) fails to establish that (1) the child is a proper subject for adoption, or (2) that the proposed home is suitable for the child. If the only reason the adoption cannot be approved is failure to meet statutory requirements, the recommendation of denial may be made without prejudice.

b. Supplemental report.

- (1) After the submission to the court of the complete report with recommendations, the Department may be requested by the court to file a supplemental report given additional information. Such report will always be filed upon request.
- (2) The Department is sometimes asked by the petitioners or their attorney to file a supplemental report in instances where its final report has recommended denial but the petition has never been heard, and in the succeeding years, circumstances have changed.
 - (a) The department will make the requested investigation and report.
 - (b) It is desirable to request the attorney to file an amended petition, setting forth the new facts, and to submit a copy of the amended petition to the Department.

c. Appeal report. (See Item 6, Sec. 2320)

4. Request for extension of time for filing report.

a. Legal basis:

Except in the case of the adoption of a child by a stepparent where one natural parent retains his or her custody and control, it shall be the duty of the Department of Social Welfare to submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition within 180 days after the filing of the petition; provided, however, that

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2320 (Continued)

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the court may allow such additional time for the filing of said report as in its discretion it may see fit.

Whenever any report or findings are submitted to the court by the Department of Social Welfare under any provision of this section, a copy of such report or findings, whether favorable or unfavorable, shall be given to the attorney for the petitioner in the proceedings, if the petitioner has an attorney of record, or to the petitioner. (Sec. 226, Civil Code)

b. Procedure for securing such extension:

- (1) Address written request to the court, giving explanation if necessity for such extension of time. (See Form Adop M19 Rev.)
- (2) Submit three copies of form for authorization of the extension. (See Form Adop M34)
- (3) File one copy of authorization with the county clerk, one in the adoption case record, and give one copy to the attorney for the petitioners.
- (4) Notify the Bureau of Adoptions, State Department of Social Welfare, Sacramento.

c. Length of extension of time period.

- (1) The extension requested shall be for the period of time estimated as necessary to clear the obstacle to the adoption. In no case shall it exceed 180 days. If the obstacle is not cleared at the end of that time a recommendation of denial shall be made.

d. Instances in which an extension of time may be requested:

- (1) When it is not possible to complete the investigation within the 180 day period.
- (2) When a petition is to be filed to have the child declared free from the custody and control of his parents.
- (3) When the petitioners wish time to make certain adjustments which are deemed desirable before the adoption can be recommended.
- (4) When the child's development is slow, or when there is a doubtful hereditary background, and the petitioners agree with the Department that a further period of time should be allowed for the study and observation of the development of the child before a final decision is reached.

(Section Continued on Next Page)

2320 (Continued)

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- (5) When the petitioners, through their attorney, have requested the Department not to proceed with the investigation at this time for some specific reason.

5. Submission of copy of report to attorney for the petitioners.

- a. Whenever any report or findings are submitted to the court, a copy of such report or findings must be submitted to the attorney for the petitioners when they have an attorney, and otherwise to the petitioners. (Sec. 226, Civil Code)

6. Appeal

- a. Appeal may be filed in the Superior Court of the county in which the petition is filed. (Sec. 226, paragraph 9, Civil Code)

(1) By the natural parent or parents, or

(2) By the petitioners.

- b. Grounds for appeal are:

(1) Failure or refusal of the State Department of Social Welfare, within 180 days from the date of the filing of the petition, or the expiration of any extension of time granted by the court, to accept the consent of the natural parent or parents; or

(2) Failure or refusal of the State Department of Social Welfare to give its consent to an adoption in these cases where its consent is required.

- c. The procedure is as follows:

(1) The clerk of the court shall immediately notify the State Department of Social Welfare of such appeal.

(2) The State Department of Social Welfare shall file a report of its findings and the reason for its failure or refusal to consent or to accept the consent of the natural parent. A copy of the report must be sent to the attorney for the petitioners, or if they have no attorney, to the petitioners. If the agent has no further information to add to the full report already filed, the report can be a statement that there is no new information and that the recommendation of the State Department of Social Welfare is based on the findings contained in the final report.

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2320 (Continued)

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(3) After the filing of the findings of the State Department of Social Welfare the court may, if it deems that the welfare of the child will be promoted by the adoption:

(a) Allow the signing of the consent by the natural parent or parents in open court.

(b) If the appeal is from the refusal of the State Department of Social Welfare to consent, grant the petition without such consent.

2330 COURT APPEARANCE

2330

1. The person or persons desiring to adopt a child and the child proposed to be adopted must appear before the court. (Secs. 227 and 227aa, Civil Code)

a. Exception.

(1) Provision is made for exception if the adoptive parent is commissioned or enlisted in the military service or auxiliary thereof, the United States, or any of its allies, or in the American Red Cross, and appearance is impossible or impractical. In such cases appearance may be made for such person by his or her counsel, commissioned and empowered in writing to do so. (Sec. 227, Civil Code)

2. The court must examine all persons appearing before it, each separately. (Sec. 227, Civil Code)

3. Departmental representation.

a. There is no legal requirement that the Department have representative in court, and it is not customary to be so represented, except upon request of the court, petitioners, or their attorney.

2340 ACTION OF COURT TO GRANT THE ADOPTION

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1. If the court is satisfied that the interests of the child will be promoted by the adoption, the party or parties adopting shall execute or acknowledge an agreement in writing that the child shall be treated in all respects as a lawful child of the party or parties. (Sec. 227, Civil Code; see sample form - Consents of Parties to Adoption, Appendices, Sec. 2935)

a. The court shall thereupon make an order awarding the custody of the child to the adopting parent or parents. (Sec. 227, Civil Code)

2340 (Continued)

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2. The petition, relinquishment, agreement and order, and any power of attorney and deposition must be filed in the office of the county clerk and shall not be open to inspection by any person other than the parties to the action and their attorneys, and the State Department of Social Welfare, except upon the written authority of the judge of the Superior Court. (Sec. 227, Civil Code)

CHAPTER V

CONSENTS

"Since the enactment of the first Massachusetts adoption law, adoption laws enacted in the United States have generally recognized that consent of the parents or other persons legally responsible for the child is important. Under the common law the father of a minor child born in lawful wedlock was entitled to his child's services and earnings as well as to his custody. By inference or by express provision, the States of the United States, with few exceptions, have provided that the rights of the mother and father to the services and earnings of the child are equal. The common law considered the child born out of wedlock as "filius nullius" (nobody's child) and gave him none of the rights or privileges ordinarily accompanying the parent-child relationship. Modern statutes, however, have given the mother of the child born out of wedlock the right of custody and the duty of support, with the attendant right to the services and earnings of her child.

"Even under the common law, the English courts exercised the right to remove a child from the custody of his father in exceptional circumstances, but this was rarely done. The power of the court has been greatly expanded by legislation in the United States, however, and the statutes of every State have authorized the courts to remove a child from the custody of both parents under certain specified conditions.

"Through an adoption action, however, a parent who has not otherwise lost parental rights to his child voluntarily gives up the right to custody, earnings, and services. Accordingly consent is an essential element in the adoption proceeding.¹"

2400 CONSENT AS DISTINGUISHED FROM RELINQUISHMENT

2400

1. A consent to adoption is a statement in writing signed by the natural parent that he gives his full and free consent to the adoption of his child by specified petitioners, whose names appear on the consent which he signs.
 - a. It is the responsibility of the Department to see that the petitioners' names appear on the consent to be executed by the natural parents and to proceed to take the consent on the assumption that the parents have this knowledge (AGO 4672).
 - b. The agent should not conceal from the natural parents the identity of the petitioners.

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1. U.S. Children's Bureau, Publication No. 262, Mary Ruth Colby, Problems and Procedures in Adoptions (Washington, D. C., 1941), p. 84.

2400 (Continued)

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- c. If the natural parent had opportunity to see the names of the petitioners and chooses not to read them, the agent should not refuse to witness the consent. If the Department makes the information available to her and she is not prevented from reading the names on the consent, the Department has no further responsibility to make the natural mother aware of the identity of the petitioners.
2. A relinquishment is a statement in writing signed by the father or mother that either or both relinquishes the child to a licensed child placing agency for placement for adoption. The agency in accepting relinquishment assumes full responsibility for the child, selects the adoptive home, and joins in the petition for adoption. The natural parent need not know the name of the adoptive parent and does not consent to the adoption. (Sec. 224, 224m, Civil Code; AGO NS1812)

2410 CONSENT OF PARENTS OF CHILD TO BE ADOPTED

2410

1. Who Must Consent.

- a. A legitimate child can not be adopted without the consent of its parents if living; provided, however, that after the custody of any child has by any judicial decree, been given to the mother, and the father for a period of one year shall wilfully fail to pay for the care, support and education of such child when able to do so, then the mother alone may consent to such adoption, but only after the father has been personally served with a copy of a citation requiring him to appear at the time and place set for the appearance in court under Sec. 227 of this code; if the father can not be located for personal service, the same may be made by publication as provided for the publication of summons in Sec. 413 of the Code of Civil Procedure. (Sec. 224, Civil Code)
- b. An illegitimate child can not be adopted without the consent of his or her mother if living. (Secs. 200, 224, Civil Code)
 - (1) A child born to a married woman is presumed to be legitimate, but there may be judicial determination that the mother is entitled to sole custody. (Secs. 193, 195, 231, Civil Code)
 - (2) See Sec. 2430 on Sole Custody.
 - (3) The consent of the father of a child born out of wedlock is necessary if the father has adopted it as provided for in Sec. 230, Civil Code.
 - (4) If the parents of an illegitimate child marry before the petition for adoption is acted upon by the court, the consent of the father must be secured.

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2410 (Continued)

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- c. Adoptive Parents. In the event that an adopted child again becomes the subject for adoption, the consent of the adoptive parents is necessary to the new adoption but the consent of the child's natural parents is not necessary in such cases.

2. Exceptions.

- a. When such father or mother had been judicially deprived of the custody and control of such child by order of the Juvenile Court, declaring such child to be free from the custody and control of either or both of his parents as provided in the Welfare and Institutions Code, adopted May 25, 1937, or any act or acts superseding or amending the same. (Sec. 224-1, Civil Code)
- b. When such father or mother of any child has deserted the child without provision for its identification. (Sec. 224-2, Civil Code)
- c. When such father or mother of any child has relinquished said child for adoption as provided in Sec. 224m of this code. (Sec. 224-3, Civil Code)
- d. When such father or mother, whose consent is otherwise required, has been declared by a court of competent jurisdiction to be feeble-minded or insane, if the State Director of Institutions and the superintendent of the State hospital of which, if any, such father or mother is an inmate or patient, certify that such father or mother will not be capable of supporting or controlling the child in a proper manner. (Sec. 224, Civil Code) When such father or mother is in an institution outside California, the same type of information is necessary. Action under Sec. 701, Welfare and Institutions Code is also necessary, the certification from the official being used as evidence.

3. Consent of Parent Who is a Minor.

- a. A parent who is a minor shall have the right to sign a consent for the adoption of his or her child, and such consent shall not be subject to revocation upon such parent's reaching his or her majority. (Sec. 226, paragraph 9, Civil Code)
- b. The consent of the parents of such parent who is a minor is not necessary to the adoption.

4. Form of Consent.

- a. In every adoption where the parents' consent is necessary, the consent must be on a form prescribed by the State Department of Social Welfare, except when an agency licensed by the State Department of Social Welfare is a party to the adoption. (Secs. 224m, 227, Civil Code)

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2410 (Continued)

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- b. The Department provides separate forms for stepparent adoptions, for independent adoptions, for use of parents residing in California, and for parents residing outside California.
- c. The Department may furnish the attorney with forms for use outside California, but the preferred procedure is for the Department to secure such consents.
- d. If the father or mother of a child to be adopted resides outside the State of California, his or her consent may be signed before a notary and in such case the consent of the Department of Social Welfare will also be necessary. (Sec. 226, paragraph 8, Civil Code)

5. Corrections and Alterations of Parent's Consent to Adoption.

- a. The consent is a legal document signed before witnesses, and can not be corrected or altered unless the corrections and/or alterations are initialed by the parent signing the consent and the agent witnessing it.
- b. For this reason it is desirable before filling out the consent form, to have at hand a copy of the petition for adoption and a copy of the child's birth certificate in order that complete and accurate information may be recorded on the consent before signature.
- c. When the birth certificate and petition for adoption, or either of them, is not available at the time the consent is signed by the parent, it is advisable to have the consent form filled in by the parent.
- d. Discrepancies between the information on the consent and the information found in the petition and the birth certificate, can be referred to in the report to the court for clarification, and for complete identification of petitioners, the child and natural parents.

6. Signatures on Consents

- a. When the parent signing the consent is known by more than one name, all names shall be signed, for example "Mildred Moore Smith," also known as "Mildred Jackson".

7. Witnessing Consent of Parent.

- a. In all cases in which consent is required, the consent for adoption must be signed in the presence of an agent of the State Department of Social Welfare. (Sec. 226, Civil Code) It is recommended that the signature of the natural parent be witnessed by another person, if possible.

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b. Exceptions.

- (1) Non-residents: If the father or mother of a child to be adopted resides outside the State of California, his or her consent may be signed before a notary and, in such case, the consent of the State Department of Social Welfare will also be necessary (Sec. 226, paragraph 8, Civil Code; AGO 7861, 8548, 9116) A consent signed by a non-resident of California but notarized in California is a valid consent. (AGO 10779)
- (2) Stepparent: In the case of an adoption by a stepparent, where one natural parent retains his or her custody and control of the child, the consent of either or both parents must be signed in the presence of a county clerk or probation officer of any county of the State. (Sec. 226, Paragraph 7, Civil Code)
- (3) Agency: A consent for adoption does not have to be witnessed by an agent of the State Department of Social Welfare when a society licensed by the State Department of Social Welfare joins in the petition for the adoption. (Sec. 226, paragraph 1, Civil Code)

c. Acceptability of Consent.

- (1) The final determination of acceptability of the consent to rest with the court.

d. Witnessing of Signature.

- (1) When the natural parent can not sign his or her name but makes a mark, Section 14, Civil Code shall be followed which provides that such mark be witnessed by two persons who must subscribe their own names as witnesses to the document.
- (2) When the natural parent is in the military service the provisions of Section 1183.5, Civil Code, shall be followed (See Proof and Acknowledgment of Instruments, Appendices, Sec.2900).

8. When Consents are Signed.

"Adoption should never be planned in haste nor decided upon in an emergency. Ample time for consideration should be allowed the child's relatives and every possible assistance offered to enable them to rear him, before he is placed with a view to adoption." Since by an adoption "the child is severed for all time from those with whom he is

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connected by the closest of human ties and this usually takes place before he has reached an age when he can have a voice in the matter, it follows that those responsible for his welfare can not use too much caution in making a decision so vital to his own future."¹

- a. There is no legal requirement regarding the time a consent shall be taken during the course of investigation.
- b. Department policy requires the filing of the petition for adoption before the signing of consent.

(1) Exceptions

- (a) When a properly executed consent of a nonresident parent has been secured and is filed with the petition.
 - (b) When circumstances of the individual case warrant such exception.
- c. Departmental policy requires that where possible a sufficient investigation of the case be made to determine the advisability of the adoption before the consent is signed. There may be cases in which it seems advisable to take the consent from the natural parent or parents before the investigation of the case is begun. Whether the consents of the natural parents be taken at the beginning or later, it should be made clear to them that the consent may be withdrawn at any time prior to the final court action on the petition. When a consent is taken before the investigation then the following points should be kept in mind:
- (1) Explanation must be given to the parent that the consent will not be accepted until a determination is made by investigation that the adoption is for the child's best interests.
 - (2) Explanation must be given to the parent that it is necessary for him or her to keep in communication with the Department until the consent is either accepted or refused.
- d. Departmental policy requires that the consent of the natural mother shall never be witnessed by an agent of the Department while the natural mother is still in the hospital or maternity home after confinement for the birth of the child.
- e. Consent should not be signed unless the parent is giving full and free consent to the adoption. If the mother seems to be in doubt as to whether she wishes her child to be adopted, further time should be taken to allow her to make up her mind before witnessing the consent.

1. U. S. Children's Bureau, Publication No. 216, Katharine F. Lenroot, The ABC of Foster-Family Care for Children (Washington, D. C., 1936), p. 34.

2410 (Continued)

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- f. In instances where a parent states that he or she believes adoption to be the best plan for the child and is willing to consent to this particular adoption if the State Department of Social Welfare finds the home to be suitable, the consent may be witnessed with the understanding that the parent will keep the Department informed of his or her whereabouts until the investigation is completed. It is important to know the continued whereabouts of the natural parents following the witnessing of the consent since investigation may not find either the petitioners' home suitable or the child a proper subject for adoption. (AGO 10110)

9. Acceptance by Department of Parent's Consent

- a. The consent of the parent is accepted by the Department only after it determines that the child is a proper subject for adoption and the proposed home is suitable for the child. This is true whether consent is witnessed by the agent or obtained by the attorney (in the case of a non-resident parent) and filed with the petitioner presented in court at the hearing. In such instances the agent making the investigation should review the consent before its acceptance. (Sec. 226, paragraph 3, Civil Code; AGO 10110)
- b. If for a period of 180 days from the date of filing the petition, or upon the expiration of any extension of time granted by the court, the Department fails or refuses to accept the consent of the natural parent or parents to the adoption; or if the Department fails or refuses to file or give its consent to an adoption in those cases where its consent is required, either the natural parent or parents or the petitioners may appeal from such refusal to the Superior Court of the county in which the petition is filed. (Sec. 226, paragraph 9, Civil Code)

10. Consent of Department.

- a. In all cases in which the consent of the natural parent or parents is not necessary, the State Department of Social Welfare shall, prior to the hearing of the petition, file its consent to the adoption with the clerk of the Superior Court of the county in which the petition is filed. (Sec. 226, paragraph 4, Civil Code)
- b. If the father or mother of a child to be adopted resides outside the State of California, his or her consent may be signed before a notary and in such case the consent of the Department of Social Welfare will also be necessary. (Sec. 226, paragraph 8, Civil Code)

11. Withdrawal of Consent by Natural Parents.

- a. The natural mother of an illegitimate child and either natural parent or both of a legitimate child may withdraw their consent to

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2410 (Continued)

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the adoption of their child at any time before the actual issuance of the order of adoption by the court. (See Forms Adop M30, Withdrawal of Consent (illegitimate) and Adop M31, Withdrawal of Consent (legitimate)).

12. Refusal to Consent.

- a. The parent or parents of a child who are unwilling to consent to its adoption may sign a formal refusal to consent, witnessed by an agent of the Department (Form Adop M20, Adop M23). This is not a requirement, however, and the parent or parents' signed statement in a letter or otherwise, or a verbal statement to the agent of the Department may be accepted as evidence of unwillingness to consent to the adoption.

13. Notarial Certificate.

- a. When the consent is signed before a notary in another State it is necessary to have attached to the consent a certificate from the clerk of a court of record of the county or district where such acknowledgment is taken that the officer certifying to the same is authorized by law to do so, and that the signature of said officer to such certificate is his true and genuine signature. (Sec. 1189, Civil Code; AGO 7861)

2420 FILING OF CONSENT

2420

1. The consent of the natural parent or parents to the adoption must be filed with the clerk of the Superior Court in the county in which the petitioners reside. (Sec. 226, paragraph 1, Civil Code)
2. In the case of an adoption by a stepparent, where one natural parent retains his or her custody or control of said child, the consent of either or both parents, signed in the presence of a county clerk or Probation Officer of a county of the State, shall be immediately filed with the clerk of the Superior Court of the county where the petition is filed, and said clerk shall immediately file a certified copy of such consent to adoption with the State Department of Social Welfare. (Sec. 226, paragraph 7, Civil Code)
3. Filing of Relinquishment.
 - a. The relinquishment to an adoption agency shall be of no effect whatsoever until a certified copy is filed with the State Department of Social Welfare. (Sec. 224m, Civil Code)

2430 EVIDENCE OF SOLE CUSTODY AND CONSENT

2430

1. Independent Adoptions.

Such consent, when reciting that the person giving it is entitled to the sole custody of the minor child shall, when duly acknowledged before an agent of the State Department of Social Welfare, be prima facie evidence of the right of the person making it to the sole custody of the child and such person's sole right to consent. (Sec. 226, paragraph 2, Civil Code)

2. Agency Adoptions.

Such relinquishment, when reciting that the person making it is entitled to the sole custody of the minor child shall, when duly acknowledged before such officer, be prima facie evidence of the right of the person making it to the sole custody of the child and such person's sole right to relinquish. (Sec. 224m, paragraph 1, Civil Code)

3. Statement of Sole Custody

The statement by the person signing the consent that he or she has sole custody, however, is not conclusive evidence of the fact, and may be refuted by other verified information.

When a married mother, consenting to an adoption, claims sole custody of her child, but there has been no court action taken to establish parental relationship and no plan for court determination, the Department can not recommend approval of the adoption.

Procedure on such cases is as follows:

- a. As soon as the investigation indicates that there may be a question regarding the legal status of the child and that the mother desires to consent as having sole custody, there should be an immediate clearance with the attorney calling to his attention the necessity for some action to clear parental relationship. The advantage of having this determination precede the final report should be discussed with him, i.e., that there be no delay or possible cloud on the adoption. It is also important to have this discussed at an early point in the investigation, as only the mother or father may question the parental relationship and the attorney will wish to take action while the parent is available. (AGO 7948, NS3778)
- b. It is preferable that a copy of the court order showing sole custody be submitted before final report is filed so that a definite recommendation of approval can be made by the Department. There may be cases, however, where it will be necessary to use one of the following plans:

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- (1) The case may be removed from the Department's calendar until such order is obtained.
- (2) Conditional approval may be given in the court report if the petition sets forth all the facts, i.e., that the mother is married but is claiming sole custody, and the attorney states that he will have a hearing on the question prior to the adoption hearing.

2440 CONSENT OF THE CHILD TO BE ADOPTED

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1. The consent of a child, if over the age of 12 years is necessary to its adoption. (Sec. 225, Civil Code)
2. The law does not specify whether this consent shall be written or oral, nor in whose presence it shall be signed. The following methods are used:
 - a. Written consent may be signed in the presence of an agent of the Department. In independent adoptions the Department as part of its investigation, before filing its report to the court, must ascertain whether the child is consenting.
 - b. Written consent may be signed in the presence of the Judge of the Superior Court at the time of the adoption hearing.
 - c. Written consent signed before a notary may be secured by the attorney and filed with the petition.

2450 CONSENT OF THE PETITIONERS

2450

1. Each spouse must consent to the adoption of the child by the other spouse, provided the husband or wife is capable of giving such consent. This is true whether both spouses join in the petition or one spouse petitions. (Sec. 223, Civil Code)
2. The law does not specify whether this consent shall be written or verbal, or in whose presence it shall be signed.
 - a. It is customary to have such consent signed in court.
 - b. Such consent is sometimes secured in writing, witnessed by a notary and filed by the petitioners or their attorney.

2460 CONSENT OF GUARDIAN OF CHILD TO BE ADOPTED

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1. The Department in its investigation consults the guardian, ascertains his opinion of the proposed adoption. If possible, the written consent of the guardian should be secured and filed with the report to the court.

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2. The adoption law does not require such consent and the child may be adopted over the protest of the guardian. (AGO 8207)

2470 CONSENT WHEN CHILD A WARD OF JUVENILE COURT

2470

1. The Department in its investigation consults the Juvenile Court on the proposed adoption and includes in its report a statement of its attitude toward the adoption.
2. The law does not require the consent of the Juvenile Court when the child is a ward of the court.

2480 CONSENT OF PETITIONERS' CHILDREN

2480

1. There is no legal requirement that the petitioners' children must consent to the proposed adoption, but in the investigation consideration should be given to the attitudes of the potential brothers and sisters and their acceptance of a new member to the family group.

2490 WHEN CONSENTS FROM NATURAL PARENTS NOT NECESSARY

2490

1. When such father or mother has been judicially deprived of the custody and control of such child by order of the Juvenile Court, declaring such child to be free from the custody and control of either or both of his parents as provided in Secs. 701, 720, 775 - 786, Welfare and Institutions Code. (Sec. 224-1, Civil Code)
2. Where such father or mother of any child has deserted the child without provision for its identification. (Sec. 224-2, Civil Code)
3. Where such father or mother of any child has relinquished said child for adoption as provided in Sec. 224m of this Code. (Sec. 224-3, Civil Code)
4. Where such father or mother, whose consent is otherwise required, has been declared by a court of competent jurisdiction to be feeble-minded or insane, if the State Director of Institutions and the superintendent of the State hospital of which, if any, such father or mother, is an inmate or patient, certify that such father or mother will not be capable of supporting or controlling the child in a proper manner. (Sec. 224-4, Civil Code; see Form Adop M50, Certificate by Supt. State Hospital in Lieu of Consent.)
 - a. Procedure for Securing Certificate under Sec. 224-4, Civil Code in Lieu of Consent of Parent Committed to State Hospital.
 - (1) When a parent of a child to be adopted is an inmate or patient of a State hospital, a clearance with the State hospital should be made before a certificate of the State Director of Insti-

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2490 (Continued)

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tutions and the superintendent of the State hospital is requested in lieu of consent, as every person committed to a State hospital would not necessarily be incapable of "supporting or controlling the child in a proper manner."

- (2) As soon as it is learned that the parent is in a State hospital or on parole from one, clearance with the hospital should be initiated. Since every case presents a different situation, the clearance will of necessity be based on the facts of the case. The following points, however, should always be cleared:
 - (a) Date and place of commitment.
 - (b) Terms of commitment.
 - (c) Whether or not a guardian has been appointed; if so, the date and place.
 - (d) Whether the person is on parole, or parole is contemplated.
 - (e) Social History.
 - (f) Diagnosis.
 - (g) Prognosis.
 - (h) Whether in the opinion of the superintendent of the hospital the patient is, or will be, capable of supporting or controlling the child in a proper manner.
 - (i) Whether or not the parent's condition would have hereditary significance affecting the adoptability of the child.
- (3) If the prognosis is good or the superintendent states that in his opinion the patient will be capable of supporting and controlling the child in a proper manner, the consent of the parent to the adoption will be necessary. Ordinarily, if the patient were on parole, the superintendent would not sign the certificate.
- (4) The certificate from the superintendent of the hospital may be accepted by the Department, when the statement that the parent will not be capable of controlling or supporting the child in a proper manner is qualified by such phrases as "I believe" or "in my opinion." In such cases, however, the recommendation in the court report should be made conditionally, provided the court finds that the provisions of Sec. 224-4, Civil Code, have been met.

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- (5) The certificate may be signed either by the Director of the Department of Institutions or by the Deputy Director. The authority for this is contained in Sec. 865, Political Code, which provides that each deputy possesses the powers and may perform the duties attached by law to the office of his principal, unless otherwise provided for.

CHAPTER VI

NEW LEGAL RELATIONSHIPS AFTER ADOPTION

2500 NAME

2500

1. A child when adopted, may take the name of the person adopting. (Sec. 228, Civil Code)
 - a. The petition for adoption and the order for adoption must set forth the name by which the child is to be known, whether or not it is to be changed. (Office of Legislative Counsel, 10-1-27 and Secs. 227 and 227aa, Civil Code)

2510 PARENT-CHILD RELATIONSHIP

2510

1. After adoption the child and petitioners shall sustain toward each other the legal relation of parent and child, and have all the rights and be subject to all the duties of that relation. (Sec. 228, Civil Code)
 - a. The parents of an adopted child are, from the time of the adoption, relieved of all parental duties towards, and all responsibility for, the child so adopted, and have no right over it. (Sec. 229, Civil Code)

2520 CORRECTED BIRTH CERTIFICATE

2520

1. For a child born in California, a corrected birth certificate can be issued after adoption, upon completion of the Certificate of Adoption, which is filed with the county clerk in the county where the petition was filed. (Sec. 10250-10254, Health and Safety Code; see Chapter VII, Sec. 2645)
2. For a child born outside California it is sometimes possible to secure a corrected birth certificate. (See Chapter VII, Sec. 2645)

2530 CITIZENSHIP

2530

1. The citizenship of the child remains the same after adoption as before.
2. The 1940 Nationality Act, Section 316, 8 U.S. Code, 716, makes provisions for naturalization of an alien child adopted by U. S. citizens under certain specific conditions:
 - a. "Sec. 316. An adopted child may, if not otherwise disqualified from becoming a citizen, be naturalized before reaching the age of eighteen years upon the petition of the adoptive parent or parents if the child has resided continuously in the United States for at least two years immediately preceding the date of filing such petition, upon compliance with all the applicable procedural provisions of the naturalization laws, if the adoptive parent or parents are citizens of the United States, and the child was:

(Section Continued on Next Page)

2530 (Continued)

2530

- (1) Lawfully admitted to the United States for permanent residence; and
- (2) Adopted in the United States before reaching the age of sixteen years; and
- (3) Adopted and in the legal custody of the adoptive parent or parents for at least two years prior to the filing of the petition for the child's naturalization."

2540 INHERITANCE

2540

1. An adopted child succeeds to the estate of one who has adopted him, the same as a natural child. (Sec. 257, Probate Code)
2. An adopted child does not succeed to the estate of a natural parent when the relationship between them has been severed by the adoption, nor does the natural parent succeed to the estate of such adopted child. (Sec. 257, Probate Code)
3. The person adopting succeeds to the estate of an adopted child, the same as a natural parent. (Sec. 257, Probate Code)
4. An adopted child does not succeed to the estate of his natural parents (Sec. 229, Civil Code), but does inherit from his natural grandparents. (Estate of Darling 176 Cal 221; 159, P. 606)

CHAPTER VII

OTHER LEGAL PROVISIONS RELATING TO ADOPTIONS

2600 ACTION TO HAVE ADOPTION SET ASIDE

2600

1. A decree of adoption may be set aside by the court (Sec. 227b, Civil Code):
 - a. If any child adopted under the provisions of the Adoption Law
 - (1) Shows evidence of being feebleminded, epileptic, or insane.
 - (2) As a result of conditions prior to adoption.
 - (3) Of which conditions the adopting parent or parents had no knowledge or notice prior to entry of the decree for adoption.
 - b. If such facts are proved to the satisfaction of the court, and
 - c. If the petition setting forth such facts is filed within five years after entering of the decree of adoption.
2. Notification of Action, Hearing, and Procedure
 - a. The clerk of the Superior Court of the county wherein the action is brought shall immediately notify the State Department of Social Welfare of the action, and shall also notify the Department of the time and place of hearing.
 - (1) Within 60 days after such notice the State Department of Social Welfare shall appear before the court to represent the child.
 - (2) The Department (Adoption Bureau) sends acknowledgment of the receipt of the notice to the clerk of the Superior Court with a copy to the attorney for the petitioners.
 - (3) The agent to whom the case is assigned:
 - (a) Writes the Attorney General, attention the deputy in charge, at Sacramento, San Francisco, or Los Angeles, depending upon the location of the local office of the Department handling the matter (1) that an action has been brought, (2) the name of the agent assigned to the case, and (3) request that he represent the Department in the action;
 - (b) Makes as complete an investigation of the petition as may be necessary to determine the facts in the case;

(Section Continued on Next Page)

2600 (Continued)

2600

- (c) Prepares and forwards to the Attorney General (in the proper district office) a statement of the facts pertaining to the adoption, including all the information possessed by the Department as to the knowledge of the adopting parents of the child's condition prior to the entry of the decree of adoption.
 - (d) On receipt of the notice of time and place of hearing, notify the Attorney General (in the proper district office) of the time and place of hearing, and arrange for the appearance of a representative of the Attorney General at the hearing. (AGO NS755)
3. Action Following Whenever Decree of Adoption Set Aside. (Sec. 227c, Civil Code)
- a. The court:
- (1) Shall direct the district attorney or a psychopathic probation officer, or any suitable person, to take proceedings under the respective chapter of the Welfare and Institutions Code relating to commitment of insane or feeble minded or epileptic persons as the case may be.
 - (2) It may also make such order relative to the care, custody, or confinement of the child pending the proceedings as it sees fit.
 - (a) The county in which the adoption proceedings were had shall be liable for the support of the child until he shall have been declared sane, or restored to capacity, and in any event until he is able to support himself.

2605 ACTION TO SET ASIDE A COURT ORDER

2605

1. Relief from judgment taken by mistake, etc. The court may, upon such terms as may be just, relieve a party or his legal representative from a judgment, order, or other proceeding taken against him through his mistake, inadvertence, surprise or excusable neglect. Application for such relief must be accompanied by a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be granted, and must be made within a reasonable time, in no case exceeding six months, after such judgment, order or proceeding was taken. (Sec. 473, Code of Civil Procedure)

2610 ACTION TO HAVE CHILD DECLARED FREE FROM CUSTODY AND CONTROL OF HIS PARENTS

2610

1. The jurisdiction of the Juvenile Court extends to any person under the age of 21 years who should be declared free from the custody and con-

(Section Continued on Next Page)

2610 (Continued)

2610

trol of his parents, under certain provisions outlined in Sec. 701, Welfare and Institutions Code.

- a. Proceeding to declare a person free from the custody and control of his parent is contained in Secs. 775-786, Welfare and Institutions Code.
2. Anyone asking information regarding the procedure whereby a child may be declared free from the custody and control of his parents should be referred to Secs. 701 and 775-786, Welfare and Institutions Code, and referred to the local probation officer for advice on assistance in filing the necessary petition.
3. Consent of the parent to the adoption is not necessary when a father or mother has been judicially deprived of the custody and control of such child by order of the Juvenile Court, declaring such child to be free from the custody and control of such parent. (Sec. 224, Civil Code; Chapter V, Secs. 2400 - 2490)

2615 ACTION TO HAVE A CHILD DECLARED A WARD OF JUVENILE COURT

2615

1. The jurisdiction of the Juvenile Court extends to any person under the age of 21 years who comes under the provisions of Sec. 700, Welfare and Institutions Code.
 - a. Proceeding to declare a person a ward of the Juvenile Court, a commitment, and other disposition of wards is outlined in Secs. 720-750, Welfare and Institutions Code.
2. A child made a ward of the court under the provisions of Sec. 735 or committed under the provisions of Sec. 740 of the Welfare and Institutions Code, is not legally free for adoption without the consent of his parent, whose consent is otherwise necessary to adoption under Sec. 224, Civil Code.

2620 LEGITIMACY AND PARENT-CHILD RESPONSIBILITY, PROVISIONS OF CIVIL CODE

2620

1. Children by birth.

- a. Legitimacy of children born in wedlock.

All children born in wedlock are presumed to be legitimate. (Sec. 193, Civil Code; AGO 7948)

- b. When a child becomes legitimate.

A child born before wedlock becomes legitimate by the subsequent marriage of its parents. (Sec. 215, Civil Code)

(Section Continued on Next Page)

2620 (Continued)

2620

c. Who may dispute legitimacy of a child.

The presumption of legitimacy can be disputed only by the husband or wife, or the descendant of one or both of them. Illegitimacy, in such case, may be proved like any other fact. (Sec. 195, Civil Code; AGO NS3778)

d. Children after dissolution of marriage.

All children of a woman who has been married, born within ten months after the dissolution of the marriage, are presumed to be legitimate children of that marriage. (Sec. 194, Civil Code) Dissolution of a marriage is not complete until the final decree. (AGO 1-NS4527)

e. Custody of minors.

The father and mother of a legitimate unmarried minor child are equally entitled to its custody, services, and earnings. If either the father or mother is dead or is unable or refuses to take the custody, or has abandoned his or her family, the other is entitled to its custody, services, and earnings. (Sec. 197, Civil Code)

f. Custody of illegitimate child.

The mother of an illegitimate unmarried minor is entitled to its custody, services, and earnings. (Sec. 200, Civil Code)

g. Reciprocal duties of parents and children in maintaining each other.

It is the duty of the father, the mother, and the children of any poor person who is unable to maintain himself by work, to maintain such person to the extent of their ability. The promise of an adult child to pay for necessities previously furnished to such parent is binding. (Sec. 206, Civil Code)

h. When a parent is not liable for support furnished his child.

A parent is not bound to compensate the other parent, or a relative, for the voluntary support of his child, without an agreement for compensation, nor to compensate a stranger for the support of a child who has abandoned the parent without just cause. (Sec. 208, Civil Code)

2. Declaration of parental relation,

a. Action to determine parental relation.

(Section Continued on Next Page)

2620 (Continued)

2620

An action may be brought for the purpose of having declared the existence or non-existence between the parties of the relation of parent and child by birth or adoption. (Sec. 231, Civil Code)

- (1) When the determination of the parental relation is necessary in an adoption case, it must be by separate action from the adoption proceedings. The action can be heard, however, at the time of the adoption hearing by the court transferring its attention from the adoption case to the civil action. The matter can be presented by the attorney as he sees fit. A written petition is not necessary, if the court is satisfied with a verbal presentation.

2625 THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT

2625

1. In all court actions where defendant fails to appear the plaintiff must present satisfactory evidence that the defendant is not absent in service. Where he is in service, and cannot appear to protect his own rights, the court appoints an attorney to represent the man's interests and may require bond to indemnify him against loss, or may stay court proceedings temporarily. (Sec. 200, The Soldiers' and Sailors' Civil Relief Act of 1942.)

2630 PATERNITY - SERVICEMAN INVOLVED¹

2630

1. When a woman alleges that a man in service is the father of her living or unborn child, there are several steps that may be taken:
 - a. The woman should be advised first to try to reach an understanding with the man himself. If this fails (b) should be next tried.
 - b. The local American Red Cross chapter may write to the field director if the man is stationed in this country. If he is outside the United States, consult the area Home Service correspondence (to be done by local American Red Cross chapter). This is frequently more effective than reporting him to military authorities.
 - c. As a last resort, the girl may present her case by letter to the man's commanding officer, with (a) a statement of facts, (b) a statement as to whether or not she wishes to marry the man, and (c) where pregnancy is alleged, a doctor's certificate supporting her statement. This step should never be taken until (a) and (b) have been tried and failed.
2. When a case is brought to the attention of military authorities, they will interview the man. If he admits responsibility and is willing to

(Section Continued on Next Page)

1. The American National Red Cross, Abridged Handbook of Home Service Information, (Washington, D. C., Rev. Oct. 1943), p. 55.

2630 (Continued)

2630

marry, he may in some circumstances be given a furlough for the purpose of marriage, provided there are no military reasons to the contrary.

3. If the man denies responsibility no action will be taken except where a civil court has declared that he is the putative father. A civil court decision is not binding on the military authorities, but will influence them in their action. During wartime "military reasons to the contrary" may prevent furlough, but the man's responsibility will be brought to his attention. The man may make a voluntary allotment of his pay for the support of the girl. He may also apply for payment of a family allowance for the benefit of the child (but not for the girl). If he fails to take the initiative, the mother may apply on behalf of the child, but family allowance will not be payable for the child unless the man acknowledges paternity, or a court has declared him to be the putative father.

2635 ENTRY OF DIVORCE DECREES NUNC PRO TUNC

2635

1. Entry of interlocutory decree nunc pro tunc: Notice and showing required:

Operation and effect.

In cases in which the court has determined that a divorce ought to be granted, but by mistake, negligence or inadvertence, the interlocutory judgment has not been signed, filed or entered, the court may, in default cases on motion of either party with notice to the other and in contested cases, on motion of either party with notice to the other and a showing that no appeal is to be taken in the action or a motion for a new trial made, cause the interlocutory judgment to be signed, dated, filed and entered therein as of the date when the same could have been signed, dated, filed and entered originally. Upon the entry of such interlocutory judgment, the parties shall have the same rights to a final judgment that they would have had, had the interlocutory judgment been entered upon the date when it could have been entered originally. (Sec. 131.5, Civil Code)

2. Entry of final judgment nunc pro tunc: Effect of such entry: Marriage subsequent to interlocutory judgment validated.

Whenever either of the parties in a divorce action is, under the law, entitled to a final judgment, but by mistake, negligence or inadvertence the same has not been signed, filed or entered, if no appeal has been taken from the interlocutory judgment or motion for a new trial made, the court, on the motion of either party thereto or upon its own motion, may cause a final judgment to be signed, dated, filed and entered therein granting the divorce as of the date when the same could have been given or made by the court if applied for. Upon the filing of such final judgment, the parties to such action shall be deemed to have been restored to the status of single persons as of the

(Section Continued on Next Page)

2635 (Continued)

2635

date affixed to such judgment, and any marriage of either of such parties subsequent to one year after the granting of the interlocutory judgment as shown by the minutes of the court, and after the final judgment could have been entered under the law if applied for, shall be valid for all purposes as of the date affixed to such final judgment, upon the filing thereof. (Sec. 133, Civil Code)

2640 ADOPTION RECORDS

2640

1. The petition, relinquishment, agreement, order, and any power of attorney and deposition must be filed in the office of the county clerk and shall not be open to inspection by any other than the parties to the action and their attorneys and the State Department of Social Welfare except upon the written authority of the judge of the Superior Court. (Sec. 227, Civil Code)
2. The Department's records are confidential, and are not available to agencies or individuals without the consent of the person concerned (parent or petitioner). (Sec. 227, Civil Code; Sec. 118, Welfare and Institutions Code)

2645 BIRTH CERTIFICATES AND ADOPTIONS

2645

1. Birth Registration

- a. The birth of each child born in this State shall be registered pursuant to this chapter. (Sec. 10150, Health and Safety Code)
- b. Duty of registering birth, provisions listed in Secs. 10175 through 10182, Health and Safety Code.
- c. Content of Certificates of birth is provided for in Sec. 10200 and general provisions in Secs. 10001, 10201, 10150, Health and Safety Code.
- d. Registration of stillborn children. (Secs. 10325 through 10330, Health and Safety Code)
- e. Unnamed children:

When any certificate of birth of a living child is presented without the statement of the given name, the local registrar shall make out and deliver to the parents of the child a special blank for a supplemental report of the given name of the child, which shall be filled out and returned to the local registrar as soon as the child is named. (Sec. 10225, Health and Safety Code)

- f. Unknown children:

(Section Continued on Next Page)

2645 (Continued)

2645

- (1) The finding of an unknown child less than one year of age shall be immediately reported to the local registrar. (Sec. 10300, Health and Safety Code)
- (2) The report shall show the sex and color of the child, the date and place of finding the child, and the name of the person or institution with whom it is placed. (Sec. 10301, Health and Safety Code)
- (3) The city, town, or rural district in which the child is found shall be known as the legal place of birth, and the date of birth shall be determined as nearly as possible, shall be given in the certificate, and shall be known as the legal date of birth. (Sec. 10302, Health and Safety Code)
- (4) The person or institution with whom the child is placed shall give the child a name and shall report the name to the local registrar. (Sec. 10303, Health and Safety Code)
- (5) The certificate of finding shall be forwarded to the State registrar with the regular monthly report of births, and shall be filed and indexed by him with the regular birth certificates. (Sec. 10304, Health and Safety Code)
- (6) If the child is later identified and a certificate of birth found or obtained, the fact shall be reported to the State registrar and he shall endorse it upon the certificate of finding with citation to the certificate of birth. (Sec. 10305, Health and Safety Code)

g. Legitimated children.

- (1) Whenever a child becomes legitimate by the subsequent marriage of its parents an affidavit of that fact may be filed by his parents with the State registrar upon a form provided for that purpose. (Sec. 10275, Health and Safety Code) Secs. 10275 through 10279, Health and Safety Code, provide for the procedure to be followed under the above section.

2. Proceedings to establish record of birth, death, or marriage.

- a. If any birth, death, or marriage, occurring in this State: (Sec. 10600, Health and Safety Code)
 - (1) Was not at the time it occurred required by law to be registered; or
 - (2) Was not registered in conformity with the provisions of law in effect at the time it occurred by the filing of the proper

(Section Continued on Next Page)

2645 (Continued)

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certificate with the local registrar within a period of one year from the date of the event or if such record has been filed but thereafter lost or destroyed, any person beneficially interested in establishing of record the fact of and the time and place of, such birth, death, or marriage may file with the county clerk a verified petition for an order judicially establishing the fact of, and the time and place of the birth, death, or marriage in either of the following courts:

- (a) The superior court of the county in which the birth, death, or marriage is alleged to have occurred.
- (b) The superior court of the county in which the person whose birth or marriage it is sought to establish is residing...

b. Out-of-state record.

If a person, domiciled in this State, was born or married outside of the State, or, if any person domiciled in this State at the time of his death, died outside of the State, and the birth, death, or marriage was not registered in the state or county in which it occurred, or a certified copy of the record of the birth, death, or marriage is not obtainable, any person beneficially interested in establishing of record the fact of the birth, death, or marriage, may petition the Superior Court of the county in which the person, if a living person, resides, or if the person has died, in the county in which he was domiciled at the date of his death, for an order judicially establishing the fact of the birth, death, or marriage. (Sec. 10600.5, Health and Safety Code)

c. Contents.

The petition shall be verified and shall contain all the facts necessary to enable the court to determine the fact of and the time and place of the birth, death, or marriage upon the proofs adduced in behalf of the petitioner at the hearing. (Sec. 10601, Health and Safety Code)

d. Service.

At least five days before the date of the hearing, a copy of the petition shall be served upon the district attorney of the county in which the petition is filed, together with a notice of the time and place of the hearing and he may appear at the hearing and oppose the making of the order. (Sec. 10602, Health and Safety Code)

(Section Continued on Next Page)

2645 (Continued)

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e. Hearing.

Upon the filing of the petition a hearing shall be fixed by the clerk and at the convenience of the court set at a time not less than five nor more than ten days after the filing of the petition. The hearing may be held in chambers. The court, for good cause, may continue the hearing beyond the ten-day period. (Sec. 10603, Health and Safety Code)

f. Filing fee.

The fee for filing the petition shall be \$3.00, one dollar of which shall go to the law library fund of the county. (Sec. 10604, Health and Safety Code)

g. Order.

If, upon the hearing, the allegations of the petition are established to the satisfaction of the court, the court may make an order determining that the birth, death, or marriage did, in fact, occur at the time and place shown by the proofs adduced at the hearing. (Sec. 10605, Health and Safety Code)

h. Form of order.

The order shall be made in the form and upon the blank prescribed and furnished by the State registrar. (Sec. 10606, Health and Safety Code)

i. Filing of copy.

The order shall become effective upon a filing of a certified copy (a) with the local registrar of vital statistics of the district in which the birth or death occurred, if it occurred in this State, or in the case of marriage with the county recorder. If the event occurred outside the State, the order shall be filed with the registrar of the district or the county recorder of the county, as the case may be, in which the petitioner resides, and (b) with the State Registrar of Vital Statistics. (Sec. 10607, Health and Safety Code)

3. Registration of previously unregistered births.

a. Who may apply.

- (1) Any beneficially interested person born in this State, whose birth (a) was not required by law to be registered at the time it occurred, or (b) was not

(Section Continued on Next Page)

2645 (Continued)

2645

registered in conformity with the law at the time it occurred, or if the record was filed but was thereafter lost or destroyed, may file an application for the original registration of such birth with the State registrar or local registrar of the district in which the birth occurred. The application and the affidavits mentioned in Sec. 10616 shall be on forms prescribed and furnished by the State registrar and shall contain such information as may be necessary to enable the State registrar to determine whether such birth did in fact occur and shall show the place and the date of such birth. The application shall be filed in duplicate. The State registrar shall immediately mail the duplicate application to the district attorney of the county in which the birth is alleged to have occurred.

APPLICATION

FILING

The provisions of this chapter are not exclusive of the provisions of Chapters 7 and 8 of this division but offer an alternative method of securing records of birth.

ALTERNATE
METHOD

Affidavits or documents of aliens ineligible for citizenship shall not be accepted.

DOCUMENTS
NOT
ACCEPTED

Birth certificates issued pursuant to this chapter shall not be considered as evidence in any action or proceeding to establish heirship unless the affidavit of at least one person who knew the facts was filed at the time of obtaining the certificate. (Sec. 10615, Health and Safety Code)

HEIRSHIP

b. The application shall be accompanied by:

- (1) An affidavit of the physician, midwife, or other person who attended the birth.
- (2) If the affidavit of the persons named in (1) can not for any reason be secured, the affidavits of both natural parents of the person whose birth it is desired to register, if both are living and available and the person is under the age of 21 years. If one parent is dead or is not available, or if the person is over 21 years of age, the affidavit of any other person who knows the facts may be accepted in lieu of the affidavit of one parent.

(Section Continued on Next Page)

2645 (Continued)

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- (3) If neither parent is living or available, the affidavit of two other persons, either relatives or non-relatives, who have actual knowledge of the facts, and who at the time of birth were of sufficient age to have a recollection thereof.
- (4) Affidavits filed in accordance with provisions (1), (2), and (3) shall be accompanied by at least one piece of documentary evidence showing place and date of birth as outlined in provision noted below; provided, however, that if a child has not reached its fifth birthday, the affidavit by the attendant or one parent is sufficient.
- (5) If none of the affidavits mentioned in (1), (2), or (3) can be secured, at least two documents, in which the facts showing the date and place of birth were recorded more than five years before the date of application. Original or certified copies of hospital records, baptismal certificates or other church records, school records, census records, insurance policies, or statements in applications for insurance, Army, Navy, or Marine discharges, naturalization certificates of foreign-born parents showing registrant's name and age, voting registration records, family Bible records, birth certificates of registrant's child, marriage certificates, newspaper notices of birth, if sufficiently complete to establish birth, shall be accepted. If the above-mentioned documents are not available, or are incomplete, the registrar may accept other documents which establish the facts.
- (6) All affidavits filed pursuant to this section shall contain a statement showing the basis of the affiant's knowledge of the facts sworn to pertaining to the date and place of birth. Upon the filing of any such application with a local registrar he shall immediately transmit it to the State registrar, together with the filing fee hereafter in Sec. 10618 of this Code. (Sec. 10616, Health and Safety Code)
- c. The State registrar after the expiration of ten days from receipt by him of acknowledgment of receipt of the duplicate application by the district attorney, shall review the application and the affidavits and documentary evidence accompanying it and if the evidence submitted complied with provisions of Secs. 10615 and 10616 (Health and Safety Code), he shall issue and file a delayed certificate of such birth. He shall prepare either duplicate or originals or certified copies of the certificate and transmit a copy to the local registrar of the district and the county recorder of the county in which such birth occurred, who shall index it as a record of

DELAYED
CERTIFICATE
OF BIRTH

(Section Continued on Next Page)

2645 (Continued)

2645

"Delayed Certificates of Birth," except that if the birth occurred in a city and county he shall transmit a copy of the delayed certificate to the local registrar only. He shall also transmit either a duplicate original or certified copy of the certificate to the applicant without cost. (Sec. 10617, Health and Safety Code)

- d. A fee of four dollars (\$4) shall be paid at the time of filing to the State registrar or local registrar for each application filed. (Sec. 10618, Health and Safety Code)

FILING FEE

4. Adopted children - birth certificate.

a. Certificate of adoption decree.

Whenever a decree of adoption has been entered in any court in the State declaring a child legally adopted a certificate of the decree shall be recorded by the clerk of the court with the State registrar upon a form provided for that purpose. (Sec. 10250, Health and Safety Code)

RECORDING

The form "Certificate of Adoption" available through the State Department of Public Health, Bureau of Vital Statistics, should be filled out by the attorney presenting the case and filed with the county clerk who completes Item 8 on the form. The Certificate of Adoption should then be transmitted to Sacramento on or before the fifth day of the month by the county clerk. New certificates of birth bearing the name of the foster parents will be made on request and payment of \$1.00 fee.

PROCEDURE

- b. The certificate shall be filed with the original record of birth, which shall remain as part of the records of the Bureau of Vital Statistics. (Sec. 10251, Health and Safety Code)

FILING

- c. Upon receipt by the State registrar of a certificate of the decree of adoption, a certificate of birth shall be issued bearing the name of the child as shown in the decree of adoption, the names of his foster parents, the age of the foster parents, the sex, date of birth, and place of birth, but no reference in any birth certificate shall be made to the adoption of the child. (Sec. 10252, Health and Safety Code)

BIRTH
CERTIFICATE

- d. This birth certificate shall supplant any birth certificate previously issued for the child and shall be the

PRIOR CER-
TIFICATE

(Section Continued on Next Page)

2645 (Continued)

2645

only birth certificate open to public inspection. In form and contents, it shall be identical with a birth certificate issued to natural parents for the birth of a child. (Sec. 10253, Health and Safety Code)

- e. When a new birth certificate is issued in place of the original birth certificate of an adopted child, the State registrar shall inform the local registrar and the county recorder whose records contain copies of the original certificate, and the local registrar and county recorder shall forward such copies to the State registrar for filing with the original certificate, if it is practical for the local registrar or county recorder to do so. If it is impractical for the local registrar or county recorder to forward the copy to the State registrar, the local registrar or county recorder shall effectually seal a cover over such copy in such a manner as not to deface or destroy such copy and forward a verified statement of his action to the State registrar. Thereafter the information contained in such copy shall be only available to any person as provided in Section 10254. (Sec. 10253.5, Health and Safety Code)

BIRTH CER-
TIFICATE
ADOPTED
CHILD

- f. All records and information specified in this article, other than the birth certificate, shall be available upon the order of a court of record. (Sec. 10254, Health and Safety Code)

RECORD
AVAIL-
ABILITY

- g. A new certificate of birth may be issued by the State registrar in accordance with this article in the case of a child born in the State, but adopted by a legal proceeding in another state, in the District of Columbia, or in any territory of the United States which has jurisdiction of the child, upon the filing with the State registrar of a copy of the decree or judgment of adoption certified by the judge who entered it or the person having legal custodianship of the records in the proceeding. When any such certificate is issued, it shall be treated in all respects the same as, and governed by all the provisions of this article pertaining to, a certificate issued in the case of a child adopted in this State. (Sec. 10253.7, Health and Safety Code)

PROCEEDING
IN OTHER
STATES

Some other states have laws affecting birth registration after adoption.

The Department has been successful in securing birth certificates for children in some other states not hav-

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2645 (Continued)

2645

ing enabling legislation. A letter explaining the California law and asking whether the Bureau of Vital Statistics in the other state could issue a corrected birth certificate without such enabling legislation has generally resulted in the issuance of a corrected certificate.

2650 DECLARATION OF UNRECORDED MARRIAGE.

2650

1. If no record of the solemnization of a marriage heretofore contracted, be known to exist, the parties may join in a written declaration of such marriage substantially showing:

One: The names, ages, and residence of the parties.

Two: The fact of marriage.

Three: That no record of such marriage is known to exist. Such declaration must be subscribed by the parties and attested by at least three witnesses. (Sec. 76, Civil Code)

2655 MARRIAGE WITHOUT LICENSE.

2655

1. When unmarried persons, not minors, have been living together as man and wife, they may, without a license, be married by any clergyman. A certificate of such marriage must, by the clergyman, be made and delivered to the parties, and recorded upon the records of the church of which the clergyman is a representative. No other record need be made. (Sec. 79, Civil Code)

CHAPTER VIII

AGENCY ADOPTIONS

2700 LEGAL BASIS FOR AGENCY ADOPTIONS

2700

1. No person, association, or corporation shall, without first having obtained a written license or permit therefor from the State Department of Social Welfare or from an inspection service approved or accredited by the Department:
 - a. Maintain or conduct any institution, boarding home, day nursery, or other place for the reception or care of children under sixteen years of age, nor engage in the business of receiving or caring for such children, nor receive nor care for any such child in the absence of its parents or guardian, either with or without compensation.
 - b. Engage in the finding of homes for children under sixteen years of age, or place any such child in any home or other place, either for temporary or permanent care or for adoption. (Sec. 1620, Welfare and Institutions Code)
2. The father or mother may relinquish a child for adoption by a written statement signed before two subscribing witnesses and acknowledged before the secretary or assistant secretaries of an organization licensed by the State Department of Social Welfare to find homes for children and place children in homes for adoption. (Sec. 224m, Civil Code)

2710 REQUIREMENTS FOR LICENSE FOR ADOPTION AGENCIES

2710

1. The society must be organized on a non-profit basis.
 - a. Incorporation as a non-profit organization is preferred, but not required.
 - b. No license is granted to an individual.
2. The society must be adequately and soundly financed.
 - a. No solicitation be made as a condition to an adoption.
 - b. Any adoption fee must be clearly defined as such and explained at time of application, and that it be based on an actual sharing of costs of service of the agency.
 - c. No employee or member of the Board should profit from the business of the agency.

(Section Continued on Next Page)

2710 (Continued)

2710

3. The society should be headed by a governing board responsible for the financing and work of the society.
4. The society should employ a staff of well qualified, well trained social workers, adequate to carry on the work of the society.
5. The society must follow rules and regulations established by the Department, and furnish requested reports and statistics.
6. The adoption program of the society must be based upon the highest standards for adoption agencies established by the Department.

2720 SUPERVISION OF ADOPTION AGENCIES BY STATE DEPARTMENT OF SOCIAL WELFARE

2720

1. Legal Authority

The State Department of Social Welfare shall make such rules and regulations as it deems best for the government of any institution or for the performance of any service specified in Sec. 1620 (Welfare and Institutions Code) and the Department may (by a member or any duly authorized representative) inspect and examine any such institution, home or place or the performance of any such service. (Sec. 1621, Welfare and Institutions Code)

2. Method of Supervision

- a. Through review of material submitted by the agency on adoption cases to the State Department of Social Welfare.
- b. Through visits to the agency made by a representative of the Bureau of Adoptions.
- c. Through joint conferences between agency and Department staffs.
- d. Through reports and statistics required of the agency.
- e. Through annual inspection for renewal of license.

2730 BASIC OPERATIONS OF ADOPTION AGENCIES

2730

1. Legal Requirements

The general provisions of the Adoption Law apply to these adoptions. There are also specific provisions applying only to agency adoptions, most important of which are:

a. Relinquishments

- (1) The father or mother may relinquish a child for adoption by a

(Section Continued on Next Page)

2730 (Continued)

2730

written statement signed before two subscribing witnesses and acknowledged before a secretary or assistant secretary of an organization licensed by the State Department of Social Welfare to find homes for children and place children in homes for adoption. (Sec. 224m, Civil Code)

- (2) Such relinquishment when reciting that the person making it is entitled to the sole custody of the minor shall, when duly acknowledged before such officer, be prima facie evidence of the right of the person making it to the sole custody of the child and such person's sole right to relinquish. (Sec. 224m, Civil Code)
- (3) In cases where a father or mother of a child resides outside the State of California and such child is being cared for and is placed for adoption by an organization licensed by the State Department of Social Welfare to place children for adoption, such father or mother may relinquish the child to that organization by written statement signed by such father or mother before a notary on a form prescribed by the organization, and previously signed by the secretary or assistant secretary of such organization, which signifies the willingness of such organization to accept the relinquishment. (Sec. 224m, Civil Code)
- (4) The relinquishment authorized by this section shall be of no effect whatsoever until a certified copy is filed with the State Department of Social Welfare. (Section 224m, Civil Code)
- (5) The relinquishment must be filed in the office of the county clerk. (Sec. 227, Civil Code)

b. Report

- (1) The report required by the State Department of Social Welfare may be waived by the Department in all cases in which a society licensed by the Department of Social Welfare to place children in homes for adoption is a party or joins in the petition. Such waiver may be issued by the Department at any time, either before or after the filing of the petition for adoption. (Sec. 226, Civil Code)
- (2) The law does not require the agency to file a report with the court. The State Department of Social Welfare, however, before giving its approval and waiving further report, requires that the agency shall file a report with the Department after it (the agency) has approved the adoption but before it authorizes the filing of the petition for adoption.

(Section Continued on Next Page)

2730 (Continued)

2730

c. Court Appearance By Agency

- (1) The law does not require the agency to be represented at the hearing, but it is customary for an agency representative to appear in court with the petitioners for the purpose of rendering any verbal report requested by the court.

2. Principles Underlying Agency Adoptions

- a. The agency accepts a child for adoption placement only when a thorough study has been made to determine:
 - (1) That separation from his family is necessary for the child's best interest.
 - (2) That adoption is for the child's best interest.
 - (3) That the child is legally free for adoption.
 - (4) That the child is suitable for adoption.
- b. The agency makes a thorough study of prospective adoptive parents, including consideration of age, health, mentality, personality, character, religion, cultural background and level, education, financial security, standard of living, understanding of children, in order to determine their fitness as adoptive parents and their suitability as adoptive parents for a particular child.
- c. The agency places special emphasis on the study of the individual child and his needs and selects a home which offers the best potentialities for the full development of the child.
- d. The child must be placed in a home of the same religious faith or preference as that of his natural parent or parents.
- e. There must be a supervised interim period (of one year) between placement and final adoption. (Exception only upon written approval by SDSW.)

3. Department Procedures In Connection With Agency Adoptions

- a. Receives and acknowledges receipt of, certified copy of relinquishment together with history regarding child and parental history.
- b. Receives notification that agency approves adoption of child by certain prospective parents, together with history sheet regarding prospective parents, and statement of the adjustment of the child in the home.

(Section Continued on Next Page)

2730 (Continued)

2730

- c. Receives and acknowledges notice, from the county clerk of the filing of the petition for adoption of the child by the prospective parents.
- d. Reviews material on hand, and, if it is questioned, refers it back to agency for further information and clarification prior to approval.
- e. Files a report with the Superior Court in the county where the petition is filed.
 - (1) Waiving the Department's report to the court, and
 - (2) Joining with the agency in recommending that the petition be granted.

2740 LICENSED AGENCIES IN CALIFORNIA

2740

The following two agencies have been licensed by the State Department of Social Welfare to place children for adoption:

1. The children's Home Society of California

Headquarters: Los Angeles - Telephone ROchester 1141
3100 West Adams Boulevard

Branch Offices: San Diego - Telephone Main 8565
645 A Street

Oakland - Telephone TRinidad 3347
3995 66th Avenue

San Francisco - Telephone SUTter 6560
995 Market Street

2. The Native Sons and Native Daughters, Central Committee on Homeless Children

Headquarters: San Francisco - Telephone ORdway 5241
998 Eddy Street

Branch Office: Los Angeles - Telephone OLympia 4105
3924 Sunset Boulevard

CHAPTER IX

STEPPARENT ADOPTIONS

2800 LEGAL BASIS

2800

The general provisions of the Adoption Law apply to stepparent adoptions. The following code sections apply specifically to stepparent adoptions:

1. In case of an adoption of a child by a stepparent where one natural parent retains his or her custody and control of said child, the consent of either or both parents must be signed in the presence of a county clerk or probation officer of any county of this State on a form prescribed by the State Department of Social Welfare and the county clerk or probation officer before whom such consent is signed shall immediately file said consent with the clerk of the Superior Court of the county where the petition is filed and said clerk shall immediately file a certified copy of such consent to adoption with the State Department of Social Welfare. (Sec. 226, paragraph 7, Civil Code)
ADOPTIONS
BY STEP-
PARENTS
2. The probation officer in the county in which the action for adoption is pending shall make an investigation of each case of adoption by a stepparent. No order of adoption shall be made by the court until after such probation officer shall have filed his report and recommendation and the same shall have been considered by the court. (Sec. 227a, Civil Code)
REPORT OF
PROBATION
OFFICER—
STEPPARENT
CASES
3. In the case of an adoption of a child by a stepparent where one natural parent retains his or her custody and control of said child, the stepparent may appear by attorney if he or she is in military, naval, or marine service of the United States. The natural parent retaining custody of the child and the child proposed to be adopted must appear before the court; provided, that if said natural parent is then commissioned or enlisted in the military service, or auxiliary thereof, of the United States, or of any of its allies, or in the American Red Cross, so that it is impossible or impracticable, because of such person's absence from the State of California, or otherwise for said person to make such appearance in person, and said circumstances are established by satisfactory evidence, said appearance may be made for such person by his or her counsel, commissioned and empowered in writing to do so and which said power of attorney may be incorporated in the petition for adoption. The court must examine all persons appearing before it pursuant to this section, each separately, and if satisfied that the interests of the child will be promoted by the adoption shall order that the stepparent shall execute or acknowledge an agreement in writing that the child shall be treated in all respects as
COURT AP-
PEARANCE
BY STEP-
PARENT IN
MILITARY
SERVICES

EXAMINA-
TION;
AGREEMENT
COURT
ORDER

(Section Continued on Next Page)

2800 (Continued)

2800

the lawful child of the party. The agreement shall be executed or acknowledged before a notary public or other person authorized under Civil Code Secs. 1182, 1183, and 1183.5 to acknowledge instruments or a commissioned officer in command of the stepparent executing or acknowledging the agreement. If the court approves the agreement, it shall thereupon make an order awarding the adoption. This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

2810 RESPONSIBILITY OF STATE DEPARTMENT OF SOCIAL WELFARE IN STEPPARENT ADOPTIONS

2810

1. The consent of the Department is necessary where the consent of one of the parents is executed outside the State. (Sec. 226, paragraph 8, Civil Code; AGO 12-20-32)
2. When inquiries are received by the State Department of Social Welfare concerning stepparent adoptions, explanation should be given that the petition must be filed in the county of residence of the petitioners and that the probation officer of that county is charged with the responsibility of investigation and report to the court. The inquirer should be referred to the probation officer for further information. If the attorney for the petitioner sends to the Department a copy of the petition which he has filed, this should be forwarded to the probation office and the attorney notified.

CHAPTER X

ADOPTION BY FATHER OF ILLEGITIMATE CHILDREN

2820 LEGAL BASIS

2820

1. The father of an illegitimate child, by (1) publicly acknowledging it as his own, (2) receiving it as such, (3) with the consent of his wife, if he is married, (4) into his family, and (5) otherwise treating it as if it were a legitimate child, thereby adopts it as such; and such child is thereupon deemed for all purposes legitimate from the time of its birth, the foregoing provisions of this chapter do not apply to such an adoption. (Sec. 230, Civil Code)

Note:

The State Department of Social Welfare has no responsibility for investigation or report concerning this type of adoption.

2830 PROBLEMS UNDER THIS SECTION

2830

1. The status of the child is uncertain, as it may be difficult to prove that a father has complied with each of the five provisions of the section and has thereby adopted the child.
2. If the natural mother of the child is living, she retains all her rights to the custody and control and earnings of the child, and, if the natural parents are not living together and jointly rearing the child, this may cause difficulties.
3. Since there is no court record or other record concerning such adoptions, there are no statistics concerning the number of children who have been so adopted.

2840 ALTERNATE PLAN TO USE OF SEC. 230, CIVIL CODE

2840

1. For the reasons noted, the father in many instances may prefer to file a petition for the adoption of his illegitimate child under Sec. 226, Civil Code, and follow the procedure provided in Sec. 227, Civil Code. In such cases all the provisions of the Civil Code relating to adoptions are complied with.
 - a. In such cases the consent of the natural mother to the adoption by the natural father is necessary.

2850 RELATION OF SEC. 230, CIVIL CODE, TO OTHER ADOPTIONS

2850

1. When an illegitimate child is placed for adoption, it is important to determine whether the father of the child may have previously adopted the child under Sec. 230, in which case it is necessary to secure the father's consent to the adoption.

ADOPTIONS

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2900 PROOF AND ACKNOWLEDGMENT OF INSTRUMENTS, PROVISIONS OF THE CIVIL
CODE OF CALIFORNIA

2900

1. Sec. 1180. By whom acknowledgments may be taken in this State. The proof or acknowledgment of an instrument may be made at any place within this State before a justice or clerk of the Supreme Court, or judge of a Superior Court.

2. Sec. 1181. By whom acknowledgments may be taken. The proof or acknowledgment of an instrument may be made in this State, within the city, county, city, and county, township or district for which the officer was elected, or appointed, before either:

- a. A clerk of a court of record;
- b. A county recorder;
- c. A court commissioner;
- d. A notary public;
- e. A justice of the peace.

3. Sec. 1182. By whom taken without the State. The proof or acknowledgment of an instrument may be made without this State, but within the United States, and within the jurisdiction of the officer, before either:

- a. A justice, judge, or clerk of any court of record of the United States; or,
- b. A justice, judge, or clerk of any court of record of any State; or,
- c. A commissioner appointed by the Governor of this State for that purpose; or,
- d. A notary public; or,
- e. Any other officer of the State where the acknowledgment is made, authorized by its laws to take such proof or acknowledgment.

4. Sec. 1183. Proof of, outside United States. The proof or acknowledgment of an instrument may be made without the United States, before either:

- a. A minister, commissioner, or charge d'affaires of the United States, resident and accredited in the country where the proof or acknowledgment is made; or,
- b. A consul, vice consul, or consular agent of the United States, resident in the country where the proof or acknowledgment is made; or,

(Section Continued on Next Page)

2900 (Continued)

2900

- c. A judge of a court of record of the country where the proof or acknowledgment is made; or,
 - d. Commissioners appointed for such purposes by the Governor of the State, pursuant to special statutes; or,
 - e. Notary public.
5. Sec. 1183.5, Proof or Acknowledgments by Men in Military Service.
- (1) Any officer of any component of the Army of the U.S. on active duty in Federal service commissioned in or assigned or detailed to duty with the Judge Advocate General's Department, any staff judge advocate or acting staff judge advocate, and the adjutant, assistant adjutant, personnel adjutant or commanding officer of any command;
 - (2) Any commanding officer or executive officer of a ship, shore station or establishment and any officer of or above the rank of lieutenant, senior grade, on active duty with the Navy or Coast Guard of the U.S.;
 - (3) Any officer of or above the rank of captain on active duty with the U.S. Marine Corps;

Shall have the power if a commissioned officer to administer and certify oaths or affirmations, attest documents, take acknowledgments, and perform all other notarial acts, for any person serving in or with the armed forces of the U.S., wherever located within or without this State.

Any instrument acknowledged by any such officer or any oath or affirmation made before such officer shall not be rendered invalid by the failure to state therein the place of execution or acknowledgment. No authentication of the officer's certificate of acknowledgment or of any jurat signed by him shall be required but the officer taking the acknowledgment shall indorse thereon or attach thereto a certificate substantially in a form authorized by the laws of this State or in the following form:

On this the _____ day of _____, 19____, before me, _____, the undersigned officer, personally appeared _____ known to me (or satisfactorily proven) to be serving in or with the armed forces of the United States and to be the person whose name is subscribed to the within instrument and acknowledged that he _____ executed the same. And the undersigned does further certify that he is at the date of this certificate a commissioned officer of the rank stated below and is in the active service of the armed forces of the United States.

Signature of officer and serial
number, rank, branch of service
and capacity in which signed.

(Section Continued on Next Page)

2900 (Continued)

2900

To any affidavit subscribed and sworn to before such officer there shall be attached a jurat substantially in the following form:

Subscribed and sworn to before me on this _____ day of _____ 19____.

Signature of officer and serial
number, rank, branch of service
and capacity in which signed.

The recitals contained in any such certificate or jurat shall be prima facie evidence of the truth thereof, and any certificate of acknowledgment, oath or affirmation purporting to have been made by any commissioned officer of the Army, Navy, Marine Corps or Coast Guard shall, notwithstanding the omission of any specific recitals therein, constitute presumptive evidence of the existence of the facts necessary to authorize such acknowledgment, oath or affirmation to be taken by the certifying officer pursuant to this section.

This section shall remain in effect until the ninety-first day after final adjournment of the Fifty-sixth Regular Session of the Legislature or until the cessation of hostilities in all wars in which the United States is now engaged, whichever first occurs. While this section is in effect it shall supersede any existing provisions of law which are in conflict with this section; but such provisions are not repealed by this section and after this section is no longer effective shall have the same force as though this section had not been enacted.

6. Sec. 1184. Deputy can take acknowledgment. When any of the officers mentioned in the four preceding sections are authorized by law to appoint a deputy, the acknowledgment or proof may be taken by such deputy, in the name of his principal.

7. Sec. 1185. Requisites for acknowledgments. The acknowledgment of an instrument must not be taken, unless the officer taking it knows or has satisfactory evidence, on the oath or affirmation of a credible witness, that the person making such acknowledgment is the individual who is described in and who executed the instrument; or, if executed by a corporation, that the persons making such acknowledgment is the president or secretary of such corporation, or other person who executed it on its behalf.

8. Sec. 1187. Conveyance by married woman. A conveyance by a married woman has the same effect as if she were unmarried, and may be acknowledged in the same manner.

9. Sec. 1188. Certificate. An officer taking the acknowledgment of an instrument must endorse thereon or attach thereto a certificate substantially in the forms hereinafter prescribed.

(Section Continued on Next Page)

2900 (Continued)

2900

10. Sec. 1189. Form of certificate of acknowledgment. Outside of State. Certificate of clerk of court. The certificate of acknowledgment, unless it is otherwise in this article provided, must be substantially in the following form: "State of _____, county of _____ ss: On this _____ day of _____, in the year _____, before me (here insert name and quality of the officer), personally appeared _____, known to me (or proved to me on the oath of _____) to be the person whose name is subscribed to the within instrument, and acknowledged that he (she or they) executed the same." Provided, however, that any acknowledgment taken without this State in accordance with the laws of the place where the acknowledgment is made, shall be sufficient in this State; and provided further, that the certificate of the clerk of a court of record of the county or district where such acknowledgment is taken, that the officer certifying to the same is authorized by law so to do, and that the signature of the said officer to such certificate is his true and genuine signature, and that such acknowledgment is taken in accordance with the laws of the place where the same is made, shall be prima facie evidence of the facts stated in the certificate of said clerk.

Note:

- A. Such certificate is known variously as:

Notarial Certificate

Clerk's Certificate

- B. Exemplified Copy: Is a more formal certification, with certification from presiding judge certifying to the office of the clerk who has certified to the office of the notary.

POSTAL CODE:

Section 33 of the Postal Laws provides that a Postmaster in the Territory of Alaska may exercise the authority of a notary provided he signs his name to the document with the notation that he is postmaster and that he has authority under Section 33 of the Postal Laws. He must also affix the stamp of the post office, which shows the place and date.

2905 OATHS AND AFFIRMATIONS

2905

1. Who May Administer Oaths

Every county officer named below, and his deputy, and every justice of the peace may administer and certify oaths. (Sec. 4013 and 4314, Political Code)

- a. A district attorney;
- b. A sheriff;
- c. A county clerk;
- d. An auditor;
- e. A treasurer;
- f. A recorder;
- g. A license collector;
- h. A tax collector; who shall be an ex officio license collector;
- i. An assessor;
- j. A superintendent of schools;
- k. A public administrator;
- l. A coroner;
- m. A surveyor;
- n. Members of the board of supervisors;
- o. A livestock inspector;
- p. A fish and game warden;
- q. A county librarian;
- r. Such other officers as may be provided by law.

2. Judicial and Certain Officers Authorized to Administer Oaths

Every court, every judge, or clerk of any court, every justice, and every notary public, and every other officer or person authorized to take testimony in any action or proceeding, or to decide upon evidence, has power to administer oaths or affirmations. (Sec. 2093, Code of Civil Procedure)

(Section Continued on Next Page)

2905 (Continued)

2905

3. Form of Ordinary Oath to a Witness

An oath, or affirmation, may be administered as follows, the person who swears, or affirms, expressing his assent when addressed in the following form: "You do solemnly swear (or affirm, as the case may be), that the evidence you shall give in this issue (or matter), (Pending between _____ and _____,) shall be the truth, the whole truth, and nothing but the truth, so help you God." (Sec. 2094, Code of Civil Procedure)

4. Form May Be Varied to Suit Witness' Belief

Whenever the court before which a person is offered as a witness is satisfied that he has a peculiar mode of swearing, connected with or in addition to the usual form of administration, which, in his opinion, is more solemn or obligatory the court may, in its discretion, adopt that mode. (Sec. 2094, Code of Civil Procedure)

5. Other Than Christian Religion

When a person is sworn who believes in any other than the Christian religion, he may be sworn according to the peculiar ceremonies of his religion, if there be any such. (Sec. 2096, Code of Civil Procedure)

6. Declare or Affirm

Any person who desires it may, at his option, instead of taking an oath make his solemn affirmation or declare by assenting when addressed in the following form: "You do solemnly affirm (or declare) that *** (etc.)." (Sec. 2097, Code of Civil Procedure)

2910 PLACEMENTS OF CHILDREN FOR ADOPTIONS, WELFARE AND
INSTITUTION CODE, SECTION 1620-1630

2910

1620. No person, association, or corporation shall, without first having obtained a written license or permit therefor from the State Department of Social Welfare or from an inspection service approved or accredited by the Department:

- (a) Maintain or conduct any institution, boarding home, day nursery, or other place for the reception or care of children under sixteen years of age, nor engage in the business of receiving or caring for such children, nor receive nor care for any such child in the absence of its parents or guardian, either with or without compensation.
- (b) Engage in the finding of homes for children under sixteen years of age, or place any such child in any home or other place, either for temporary or permanent care or for adoption.

1621. The State Department of Social Welfare shall make such rules and regulations as it deems best for the government of any institution or for the performance of any service specified in Sec. 1620 of this Code and the Department may, by a member, or any duly authorized representative, inspect and examine any such institution, home, or place, or the performance of any such service.

1622. The State Department of Social Welfare may delegate such of its authority as it deems best to an approved and accredited inspection service. This service shall be either the health department of a county or other political subdivision which maintains at least one regularly licensed physician, or a qualified social service department, either of which has been approved in writing by the State department.

1623. A permit or license issued by the State Department of Social Welfare or by an approved and accredited inspection service shall expire twelve months from its date of issuance.

1624. Application for renewal of a permit or license shall be filed ten days prior to its expiration each year. If the application is not so filed, the license or permit is automatically canceled.

1625. Permits or licenses may be revoked for cause after a hearing before the State Department of Social Welfare or an approved and accredited inspection service. Written notice of the time and place of such hearing and of the charges made against the holder of the permit or license shall be duly served on him not less than ten days prior to the time fixed for such hearing.

1626. No license shall be transferred. Neither the location of any institution, boarding home, or other place specified in Sec. 1620 of this Code nor the place of performance of any service specified therein shall be changed without the written consent of the State Department of Social Welfare, or of an approved or accredited inspection service.

1627. Every holder of a permit or license shall maintain a register setting forth the following facts concerning each child under the age of sixteen years received or cared for, or placed in any home by such license holder;

(Section Continued on Next Page)

2910 (Continued)

2910

- (a) Name.
- (b) Last previous address.
- (c) Age.
- (d) Nearest of kin.
- (e) Mother's maiden name.
- (f) Person responsible for his care and maintenance.
- (g) Such other data as the State Department of Social Welfare requires.

1628. Upon the occurrence of any deaths of children or changes in the administrative personnel of any such home, the holder of the license or permit shall, within forty-eight hours, give written notice thereof to the State Department of Social Welfare or to the approved and accredited inspection service by which such license or permit was issued.

1629. Any person, association, or corporation that maintains, conducts, or, as manager or officer or in any other administrative capacity, assists in maintaining or conducting any institution, boarding home, or other place or the performance of any service specified in Sec. 1620 of this Code without first having secured a license or permit therefor in writing, or refuses to permit or interferes with the inspection authorized in Sec. 1621 of this Code, is guilty of a misdemeanor.

1630. The district attorney of every county shall, upon application by the State Department of Social Welfare or its authorized representatives, or by an approved and accredited inspection service, institute and conduct the prosecution of any actions brought for the violation within his county of any of the provisions of this chapter.

2915 INFANT DISMISSAL

2915

1. Rules Pertaining to Infant Dismissal

"Maternity hospitals shall report on the usual report forms to the State Department of Social Welfare within twenty-four hours the name and address of any person, other than a parent or relative by blood or marriage, or the name and address of the organization or institution, into whose custody, a child is given on discharge from the licensed premises." (State Department of Public Health "Rules and Regulations Governing Maternity Homes and Hospitals", p.11)

2. Procedure on Infant Dismissal Reports

- a. Index will refer to the Bureau of Adoptions, by the 10th of each month, reports of Infant Dismissals (Form Ad 22) received during the previous month.
- b. The Bureau of Adoptions will refer to the Bureau of Boarding Homes and Institutions at the end of six weeks the infant dismissal reports on all cases received during the previous month on which petition for adoption has not been filed, except those showing that the child was dismissed to an adoption agency.
- c. The Bureau of Boarding Homes and Institutions will write a letter to the person to whom the child was dismissed, with copy to the accredited or inspection agency in the county, calling the person's attention to the boarding home law and the necessity for a license if the child is to remain in the home.

DISMISSAL

Dismissal forms may be obtained from the State Department of Public Health or the State Department of Social Welfare. They should be completed in duplicate, one copy to be retained for the hospital files, and one to be submitted to the State Department of Social Welfare. (See Form Ad 22)

2920 OUTLINE: INTERVIEW NATURAL PARENT - AD. (To be used in recording interview) 2920

I. MOTHER:

Maiden name (if other names have been used, list).

Address (usual and present), birthdate and place.

Brief description of mother - physical, emotional, poise, etc.

II. FATHER:

Name (if other names have been used, list).

Address (usual and present), birthdate and place.

Brief description of father - physical, emotional, poise, etc.

Does he know of birth of child? May he be interviewed?

III. SUBJECT OF ADOPTION:

Name (as given on birth certificate), other names used.

Place of birth, date of birth, name of hospital where born; if not born in hospital, give address.

If child not placed at birth, give history of development to time of placement. Did parent care for child or what was plan of care?

Health History: i.e., congenital diseases, childhood diseases, immunization.

IV. PLACEMENT:

Date made, continuous; interrupted -- if so, explain.

When was plan for placement made? Why was plan made? Were other plans considered? Did mother know about adoption agency services? Did she reject? (The value of agency services should be discussed briefly with mother.)

Who assisted in making placement, i.e., physician, nurse, mutual friend, etc. (Secure this information in detail, including name and address.)

Are petitioners related to parent, or friends over long period? If parent and petitioners were not acquainted before, how long have they known each other? Has parent been in petitioners' home? How much does she know about petitioners? Parent's evaluation of the home? Does she understand that all her contacts with her child may be broken? Did petitioners pay medical or confinement expenses; assist mother financially in any way? Does this influence her consent?

(Section Continued on Next Page)

2920 (Continued)

2920

If parent still does not know petitioners, does she wish further information?

Does she have any preference regarding racial or educational background of petitioners?

What are parent's wishes for child's religious training?

V. MOTHER'S BACKGROUND:

Nationality descent: Religion: If no active religious connection, what was background or former training?

Education: Highest grade completed; age at completion; last school attended. If age is not average for grade, did illness, etc., cause, or what was reason?
Specific vocational training?

Occupation: Present - place of employment, length, wage
Usual - " " " " "
Other - " " " " "

Special talents, hobbies, aptitudes which might be of interest.

Health: Usual; any history of unusual illness, physical, mental or nervous disorders. (If information obtained, record of physician's examination, laboratory tests for venereal disease, tuberculous, etc.)

Health during pregnancy and delivery; prenatal care.

Doctor attending birth, address, phone. (Secure authorization for medical clearance.)

Marriages and dissolutions: (Mother should know we will verify, and why)

Secure names of spouses, dates, and places of marriages, date, place and nature of dissolution. (If divorce, separation, or annulment, reason given by mother.)

Children (other than subject of adoption): Secure names, date and place of birth, present address; if not with mother, what plans did she make for them; education - if in school, name of school, grade; developmental history - was it usual; if retarded in walking, talking, etc., record and mother's explanation; health - any unusual illness; occupation - if employed; do they know about subject of adoption?

Mother's relatives: mother, father, siblings: secure names, addresses, education, health, occupation - present and usual, (also discuss

(Section Continued on Next Page)

2920 (Continued)

2920

briefly mother's grandparents, uncles and aunts, to show educational and occupational pattern in family). Any history of unusual illness, physical or mental, or nervous defects; commitments to State or private hospitals or prisons (secure details).

Some discussion of family life, social problems (if any, were they known to agency); mother's relationship to her family, past and present.

Which relatives know about subject of adoption? May we contact them? Would the mother wish discussion of plans with relatives? Did any participate in planning for adoption? What is their attitude? Would they assist?

VI. FATHER'S BACKGROUND:

Agent will obtain as much of same material as possible re father as told by mother and record according to outline.

VII. CONSENT:

Consent should not be taken unless mother/father has reached a definite decision. Does she sign willingly, or does there appear to be other pressure or influence? If uncertain she should be given additional time to reach decision but should understand the reasons why she should not delay indefinitely.

Does parent understand that all her responsibility has not been removed by signing consent, that the adoption is not legally consummated until the Court Order is made, and that it is, therefore, necessary to keep SDSW informed of her whereabouts until after the Court hearing.

2925 OUTLINE FOR INTERVIEW WITH PETITIONERS (May be used as a guide in recording)

2925

1. Introduction: Date, person interviewed, place of interview.
2. Brief description of petitioners, housing, atmosphere, etc.
3. HOUSEHOLD: Names, relationship, health, age, education, employment, if any, attitude toward adoption of minor.
4. MINOR: Brief description; developmental history to date; adjustment in the home, etc.

(Section Continued on Next Page)

2925 (Continued)

2925

5. PETITIONERS:

A. The present status of the couple.

- (1) Previous marriage of each and dissolution; information regarding any children by previous marriages.
- (2) Present marriage; length of marriage; what sort of adjustment.
- (3) Financial situation, including earnings, income, real property, savings, debts, insurance.
- (4) Any contacts with social agencies.
- (5) Social status, including church affiliations, community activities, recreation, hobbies, etc.

B. Woman Petitioner:

Birth date, birth place; if foreign born, where and when citizenship acquired; if not citizen, legal entry; siblings. (It is not necessary to obtain names and addresses of siblings.) There should be discussion to show educational, occupational, and health backgrounds of siblings and their attitude toward the adoption.

Educational Background.

Employment History - present, usual, and other.

Health History - physical and mental, including institutional record, if any.

C. Man Petitioner:

Give same information regarding man petitioner. Man petitioner should corroborate any information given by woman petitioner regarding him and his family. Military status should be discussed and recorded.

6. REGARDING ADOPTION:

A. Placement:

This should be discussed with both petitioners. Discussion should cover why petitioners wish to adopt child; how they obtained him; date of placement and whether continuous; who assisted in making placement, including names, addresses, and information in detail; whether petitioners are related to parents, friends, or acquaintances; how much they know about parents; their attitude towards parents and regarding child's background or lack of history if information is limited; whether they assisted parents financially; and, if so, to what extent.

(Section Continued on Next Page)

2925 (Continued)

2925

B. Plans and Training:

This should be discussed with both petitioners. Discussion should cover plans for child; will he be told of his adoption; education and religious training; and their understanding of child care and training.

7. ANY DISCUSSION not covered in preceding paragraphs.

8. AGENT'S EVALUATION of suitability of home.

2930 OUTLINE FOR COURT REPORT AND INSTRUCTIONS FOR PREPARING

2930

The State Department of Social Welfare, in conformity with Sec. 226 of the Civil Code of California, presents its report in the matter of the adoption of _____ by _____ and _____.

I. MINOR:

1. Verified birth information and legal status. (If there is a difference between the official record, the petition and/or the report given by the parents, that should be pointed out).

2. Placement:

Date and circumstances; whether child in home continuously or for broken periods; statement when petitioners paid any of expenses of prenatal or confinement care.

3. Relationship to petitioners.

4. Medical Report:

a. Delivery, as related to minor, if pertinent.

b. Pediatrician.

c. Developmental history, if pertinent.

5. Mental Report, if available.

6. Statement of any property or other estate owned by minor.

(Section Continued on Next Page)

2930 (Continued)

2930

II. NATURAL PARENT OR PARENTS:

1. MOTHER:

- a. Brief sketch of mother's personal history and background, showing her maiden name, married name, if any, any aliases which are pertinent to establishing identity of child or other relationship, present age, nationality--descent, religion, education, occupation, any record of social maladjustment, i.e., Juvenile Court, police or penal record.
- b. Health - medical report, if possible; report of doctor delivering child, as related to mother; whether mother reports any family history or personal history of inherited physical or nervous disorder, or such history in alleged father's background.

c. Vital Statistics:

Marriage (s), date, place, verification.
Divorce (s), " " "
Death (s), " " "

2. Same information for father (where applicable and possible) as for mother,

III. CONSENT:

1. Legal status of parents.
2. Parents attitude towards adoption.
3. Attitude of guardian or of Juvenile Court if child is a ward of the court.
4. Statement when action is necessary to eliminate consent of parent in accordance with Sec. 224.
5. If consent appears inadequate, statement pointing this out and presenting the question of validity for court's consideration.
6. If out of state consent has been secured by someone outside the department, statement that it has been reviewed.

IV. PETITIONER(S):

1. Brief sketch of family history and background of man petitioner, covering name, age, religion, nationality-descent (if foreign born, citizenship information - verified; if not citizen, statement regarding legal

(Section Continued on Next Page)

2930 (Continued)

2930

entry into U.S.); education, health, any record of social maladjustment; police, penal, or institutional record, draft classification; social and religious or community activities; employment.

2. Similar sketch of woman petitioner as in paragraph 1, adding statement regarding her ability to support minor if necessary.
 3. Date and place of marriage (verified).
 4. Household of petitioners, giving names, relationship, age, if pertinent, how supported and health.
 5. Financial situation:
 - a. Home, address, owned or rented, value of equity, payments.
 - b. Income (verified), including occupation of man petitioner and woman petitioner (if employed), where employed, and length of employment.
 - c. Insurance and savings; if none, reason why.
 - d. Other property or resources.
 - e. Debts, if any.
 6. Adjustment of minor and petitioners.
 7. References.
 8. Attitude of petitioners in questionable cases.
- V. RECOMMENDATION:
1. Summary, evaluating advantages and disadvantages of the adoption.
 2. Department's recommendation.

2930 (Continued)

2930

INSTRUCTIONS FOR PREPARING COURT REPORT ACCORDING TO OUTLINE

No information should be included in the court report unless it is substantiated elsewhere in the case record through correspondence, questionnaire, narrative, or otherwise.

OPENING PARAGRAPH:

The opening paragraph shown in the outline is to be used on all cases in which the final report is the first report filed with the court. The following paragraph should be substituted when the report is on a restored case:

"Petition in the matter of the adoption of _____
was filed in the Superior Court of _____ County,
California, on _____ by _____
and _____."

On the _____ day of _____ the case was
removed from the calendar of the State Department of Social Welfare.

(Reasons)

"The case has now been restored to calendar and the Department is submitting its final report in accordance with Sec. 226 of the Civil Code of California."

I. CHILD:

1. Information from the birth certificate, district number, certificate number, the name of the natural father, etc., need not appear in the report, but may be included in agent's letter to the attorney notifying him of the filing of the report.
2. Placement - In giving circumstances of placement the name of a third person arranging placement should not be given unless he/she has been interviewed and the facts obtained from him/her. If placement was actually made by an intermediary with persons not known to parents, the name should appear.
4. Medical Reports - This paragraph should include the report of the obstetrician and two reports from the pediatrician, if possible. It is preferable that the last of these be obtained not more than a month before the filing of the report.

In reporting developmental history, if the child appears to be developing normally a simple statement may be made to that effect.

5. When minor is an infant mental reports will not be necessary unless there is something to indicate the necessity for an examination. In the case of an older child who is in school, the school report or grades can be included here.

(Section Continued on Next Page)

2930 (Continued)

2930

6. Any statement regarding property or estate owned by a minor should be verified.

II. NATURAL PARENTS OR PARENT:

1. Practically all the points listed can be covered in one or two sentences. In reporting Juvenile Court, police, or penal records, the reason for the record should be given if pertinent to the determination that the child is a proper subject for adoption. Ordinarily, in case of denial or questionable approval, all available information would be pertinent and therefore should be included.

Information on vital statistics should be given in detail in all cases where legal status of the child is involved. In other cases only the present marriage will need to be listed and verified. A statement can be made that all other marriages and dissolutions have been verified.

2. Information in regard to the father should be given for the minor born in wedlock. When the history regarding the alleged father clouds the determination of whether the child is a proper subject for adoption information should be included.

III. CONSENTS:

1. Legal status should be substantiated by facts.
2. The parents' attitude toward the adoption should include the following:
 - a. Whether the mother has met petitioners and is satisfied, or has not met them and is satisfied with what she has been told.
 - b. The mother's statement as to whether she was influenced in giving her consent by payments or gifts from petitioners.
 - c. If there is a difference in religion, a statement should be included as to her willingness to have the child in a home of a different faith or reared in a different faith.
 - d. Statement that parent or parents willingly signed the consents attached.
3. Although consent of a guardian of minor, or of the Juvenile Court when minor is a ward of the court is not necessary, it is advisable to include a statement of their attitude toward the adoption.
4. When action is taken to eliminate consent, specify type of action to be taken, date action filed, and month of action.
5. If the consent appears inadequate or action to eliminate consent is pending, statement should be made that recommendation is filed conditionally.

(Section Continued on Next Page)

2930 (Continued)

2930

IV. PETITIONER(S):

1. If a petitioner's present occupation (such as in defense industry) is not his usual occupation, report should show where he was employed previously.
3. If either petitioner has been previously married, the number of marriages for each should be shown, and it should be stated that previous marriages and dissolutions have been verified. If some circumstance surrounding a previous marriage clouds the suitability of a home, full information should be given in regard to it.
5. Debts should be listed only if they are of sufficient importance to cloud the suitability of the home.
6. This paragraph should contain a statement as to whether the relationship existing between the adopting parents and minor is comparable to that of natural parents and child.
7. Names of references need not be given in the report.
8. Where there is no verified information regarding the minor's background for either (or both) parent, or where information obtained shows undesirable background, but petitioners wish to proceed with the adoption, statement should be made to that effect. This should include the statement that all the known facts and/or lack of information regarding minor have been discussed with petitioners, who have expressed their desire to consummate the adoption and their willingness to assume responsibility for minor regardless of future developments. In cases of this type, reports from State Hospitals or institutions may be attached as exhibits.

V. RECOMMENDATION

1. The summary paragraph need not be a long one, but it should give the basis for the Department's recommendation.
2. If the consent of either parent is being eliminated; if there is a question of the validity of the consent submitted; or if any other point is being left for court determination, it should be stated that the Department's recommendation is subject to proper clearance of the point in question.

Where minor's background is questionable or undesirable, as outlined under section IV, paragraph 6, but the petitioners are desirous of consummating the adoption, the statement should be omitted from the recommendation that the State Department of Social Welfare believes "minor to be a proper subject for adoption."

2935 SUGGESTED OUTLINE FOR PETITION FOR ADOPTION (Guide only - Cannot
be used for filing)

2935

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF _____

.....
IN THE MATTER OF THE ADOPTION OF :
: :
: : PETITION FOR ADOPTION
: :
....., a Minor :
.....

To the Honorable Superior Court of the State of California, in and for said
County:

The petition of.....and.....
of said County, respectfully shows:

I.

That the petitioners herein are each over the age of twenty-one years; that
each of them is more than 10 years older than the child to be adopted; that they
are residents of the County of....., State of California; that
they have been united in marriage for..... years last past; and that
they now reside with each other in said County and State at.....
and..... (Street)
(Town)

II.

That....., the minor child, was born on the
..... day of....., 19...., unto.....
and..... husband and wife. (Or, was born out of
wedlock unto.....; or was born unto.....;
and that pursuant to Secs. 220 and 224 of the Civil Code of the State of Cali-
fornia the consent of the mother only is required to this adoption.)

III.

If the child has been relinquished to an agency licensed by the State Department
of Social Welfare to place children for adoption, this statement should be made
and a copy of the relinquishment attached to the petition. (This applies only
to agency adoptions.)

If the parents are consenting to the adoption, the statement should be made, nam-
ing each parent and stating that he will give his consent to this adoption.

If the parent is deceased, that fact should be stated giving date and place of
death.

(Section Continued on Next Page)

2935 (Continued)

2935

If the child was born out of wedlock, statement should be made that the mother will consent and that her consent alone is necessary under Sec. 224 of the Civil Code.

Where the mother alone is consenting to the adoption of a legitimate child and the father for a period of one year has wilfully failed to pay for the care, support and education of such child when able to do so, statement should be included concerning the issuance of citation to the father, requiring him to appear at the time and place set for the appearance in court under Sec. 227, Civil Code. (See Sec. 224 Civil Code.)

When the father or mother has been judicially deprived of the custody and control of the child by order of the Juvenile Court, a statement should be included of the date and place of the order declaring such child to be free from custody and control of either or both of his parents.

When the consent of the parent is not necessary according to provision four under Sec. 224, Civil Code, the facts should be set forth.

When the child has been deserted without provision for its identification, this fact should be set forth.

IV.

That said child is now in the County of....., State of California, and is residing at.....Street.

V.

That petitioners desire to adopt said child and desire to adopt him/her under the name of.....

WHEREFORE, petitioners pray the Court to permit all persons concerned in this matter to attend and be heard, and that the Court examine all persons thus appearing before it, each separately, as required by law, and, if satisfied that the interests of the child will be promoted by the adoption proposed, grant said petition and make an order decreeing that said child has been duly and legally adopted by petitioners, and that child hereafter bear the name of

.....
.....
.....
.....

Petitioners

.....
.....
.....

Attorney for Petitioners

2935 (Continued)

2935

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF _____

.....
IN THE MATTER OF THE ADOPTION OF :
: :
: No.....
: :
....., a Minor :
..... :

CONSENT OF HUSBAND

I, one of the undersigned petitioners herein, husband of said other petitioner, do hereby consent to the adoption of said minor child..... by my wife, and that the said child shall be by us jointly adopted.

.....
Husband

CONSENT OF WIFE

I, one of the undersigned petitioners herein, wife of said other petitioner, do hereby consent to the adoption of said minor child..... by my husband, and that the said child shall be by us jointly adopted.

.....
Wife

CONSENT OF CHILD

I, the said minor child of the age of years, do hereby consent to my adoption by said petitioners and to my name being changed to.....

.....
(To be signed if the child is over the
age of 12 years)

AGREEMENT OF ADOPTION

We, the undersigned petitioners having petitioned the above entitled Court for the approval of the adoption of the above-named minor child, do hereby agree with the State of California and with the said minor child that the said minor child shall be adopted and treated in all respects as our own lawful child should be treated and that said minor child shall enjoy all of the rights of a natural child of our own issue, including the right of inheritance.

.....
.....
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2935

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF

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Executed on.....194...

In the presence of

.....
Judge of the Superior Court

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